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PROCUREMENT OF EXECUTIVE FURNISHINGS AND DECORATIONS BY THE FEDERAL LABOR RELATIONS AUTHORITY

HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL EXPENDITURES, RESEARCH, AND RULES

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

MAY 20, 1982

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PROCUREMENT OF EXECUTIVE FURNISHINGS AND DECORATIONS BY THE FEDERAL LABOR RELATIONS AUTHORITY

THURSDAY, MAY 20, 1982

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL EXPENDITURES,
RESEARCH, AND RULES,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in the Agenda Room, Federal Labor Relations Authority, Hon. John C. Danforth (chairman of the subcommittee) presiding.

Present: Senators Danforth and Chiles.

Staff present: B. Reid Detchon, staff director; William B. Montalto, procurement policy counsel; David F. Zorensky, chief counsel; Ronald A. Chiodo, minority staff director; and Patricia A. Otto, chief clerk.

OPENING STATEMENT OF SENATOR DANFORTH

Senator DANFORTH. We are going to get started. There is a very strong likelihood of votes on the Senate floor at 11 o'clock, and we certainly want to hear from the GAO and also from the members of the Authority because they certainly deserve to have a time at bat, if we have time.

We will proceed then with Mr. Shepard and Mr. Carmen.

The major responsibility of this subcommittee is to keep a watchful eye on the Federal procurement system. While abuses come frequently to our attention, they always provoke a strong response. What we have just seen here is appalling extravagance at the taxpayers' expense: $3,400 for two Barcelona chairs, $3,900 for eight file cabinets, $7,400 for wallpaper for one office, and more than $10,000 for a table and eight chairs. It is truly outrageous.

The Federal Labor Relations Authority was created in 1978 as part of the Carter administration's civil service reforms. It was established to hear complaints about unfair labor practices involving Federal employees. The three members of the Authority are appointed by the President for 5-year terms, and can be removed only for misconduct, inefficiency, neglect of duty, or malfeasance in office. Whether any of those apply in this case, I cannot judge; what is clear here is that Potomac fever spread out of control.

You cannot remember who pays the bills around here and then go out and spend $7,400 on wallpaper. It is not Uncle Sugar who pays. It is the guy in St. Louis or Miami who is struggling to get by in a severe

recession. It is tough enough for him to pay his taxes, but it is tougher still when he hears about behavior like this. And that's the tragedy: this kind of abuse gives all of Government a bad name. The public will again conclude that the bureaucratic hogs are back at the public trough.

I do not believe that this behavior is typical of our Federal employees; indeed, I do not believe that this behavior necessarily casts a shadow on the FLRA's ability to carry out its mission. But I do believe it is time to put a stop, once and for all, to the possibility of this happening again.

Later today I intend to introduce the Furniture Purchase Reimbursement Act of 1982. My message to Federal employees will be very simple: either do it right, or buy it yourself. Under my bill, all purchases of furniture for Presidential appointees will have to be handled through the General Services Administration. If a Federal employee violates that rule, he will pay for the furniture out of his own pocket. As chairman of this subcommittee, I intend to press for speedy enactment.

Senator Chiles.

OPENING STATEMENT OF SENATOR CHILES

Senator CHILES. We came here today to see for ourselves how one Federal agency has responded to this administration's call for economy in Government. I am stunned by what I have seen so far.

Here is a Federal agency which outfitted the offices of its Presidential appointees with palatial trappings. We have seen purchases which cost $5,000 to $15,000 per room, conference tables at $4,000, and chairs in the thousands of dollars.

It seems like all of this is occurring at the same time when personnel from this agency have been RIF'd because there is not enough money, and at the same time they are talking about having to furlough employees that are here now because the agency does not have enough money to run the department.

When this subcommittee inquired with the Federal Labor Relations Authority as to who was responsible and why this happened, thus far I do not think we have any answers. I hope we get some better answers this morning.

So we are here today to try to get those answers. We are here to find out what went wrong at the Federal Labor Relations Authority and to find out whether this is symptomatic of a larger problem; also to find out what can be done to see that something like this does not happen again.

Two years ago, after an extensive review of Federal furniture buying practices, Senator Danforth and I successfully rescinded $220 million which was previously appropriated for the purchase of furniture by the Government, to put a stop to that furniture buying across the Government.

Perhaps we should be looking now at legislative attempts to design this, and I am delighted to hear the bill the chairman is talking about introducing today because when you see furniture like this—some of which has even been excessed, I understand, such as patio furniture, and given to the Park Service—then I think it tells us that we have not found the key to blocking all of the wasteful furniture buying.

I look forward to the answers that we get at this hearing.

Senator DANFORTH. Thank you very much, Senator Chiles.

The first witness is Robert M. Gilroy, Senior Associate Director of the Procurement, Logistics and Readiness Division, U.S. General Accounting Office.

You may proceed.

TESTIMONY OF ROBERT M. GILROY, SENIOR ASSOCIATE DIRECTOR, PROCUREMENT, LOGISTICS AND READINESS DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY BARRY BEDRICK, OFFICE OF GENERAL COUNSEL, GAO, SIDNEY WOLIN, GROUP DIRECTOR, AND ROGER CARROLL, EVALUATOR IN CHARGE, PROCUREMENT, LOGISTICS AND READINESS DIVISION, GAO

Mr. GILROY. Mr. Chairman, on my left is Barry Bedrick, from our Office of General Counsel. On my immediate right is Sid Wolin, a Group Director of our Procurement, Logistics and Readiness Division. Next to him is Roger Carroll, of our Procurement, Logistics and Readiness Division, who is the Evaluator in Charge of our work at the Federal Labor Relations Authority.

Mr. Chairman, at your request, the General Accounting Office is reviewing purchases of furniture and furnishings by the Federal Labor Relations Authority. Your request stemmed from allegations of purchases of unusually high-priced office furniture and furnishings by the FLRA for three members of the Authority and its General Counsel. It is our understanding of the request that the subcommittee wants an accounting of the types and cost of furniture and furnishings procured and an explanation of the procurement procedure used by the FLRA.

As you are aware, Mr. Chairman, our review of these allegations is still in process, and consequently, it will be necessary at times to qualify our statements to reflect the state of the review.

We reviewed the contract file under which the furniture in question was purchased. The contract was awarded June 5, 1981, for $88,808. However, FLRA modified the contract several times, and the final contract price was $255,350. Enclosure I to this statement will give a breakdown of the modifications. The distribution of the furniture and furnishings amounted to about $159,000 for the three members and about $23,000 for the General Counsel's office. The balance, about $74,000, was used to furnish the agenda room, some senior executive service offices, and the Authority's administrative law judges' offices. About $10,000 worth of furniture, at the time of our review, was undelivered or in storage. Enclosure II of this statement will give a breakdown of the purchases by dollar amount by the members and the General Counsel.

At the time this contract was awarded, a Presidentially directed moratorium on furniture procurement was in effect. On January 30, 1981, the Director of OMB issued Bulletin 81–9 to the heads of departments and establishments requiring a moratorium on furniture procurement unless an exemption was obtained from OMB. To obtain such an exemption, a justification letter was to be prepared and signed by the head of the agency explaining why the furniture procurement

could not be postponed. We found no indication that an exception was sought or obtained by FLRA as the bulletin required. However, in discussions with top management at FLRA, it was apparent that they had been informed and were aware of the moratorium on furniture procurement.

Our review of the contract file disclosed a memo dated December 30, 1980, from one of the members directing the contracting officer to order his, that is, the member's, furniture immediately. Attached to the memo was a list of the furniture, identified by specific brand name, to be ordered. The contract file also contains a document dated January 7, 1981, in which FLRA's Executive Director instructed the contracting officer to buy the furniture.

We believe that, in the absence of a written waiver from the furniture moratorium, FLRA should not have initiated this procurement. In fact, had they followed procedures and processed their requisition through the GSA, without the required OMB waiver, the procurement would not have been authorized.

Our review is still in process, and we will be comparing prices paid by FLRA under the June 1981 contract to prices they would have paid had the purchase been made through GSA. There are a number of items purchased by FLRA which we will want to compare with GSA prices: For example, two conference tables purchased for two FLRA members, one for $2,999 and the other for $2,880; two sofas, one for $2,009 and the other for $1,450; a marble-top table for $1,183; two Barcelona chairs for $3,425; a muffin stand for $390; two credenzas for $4,095; and a basin stand for $887. We also noted that $2,492 was spent for patio furniture, but the FLRA later discovered that they were not allowed to use the patio and placed the furniture in storage.

In addition to the matters previously cited in this testimony, we are reviewing the justification for certain fiscal 1981 yearend procurements.

We also noted on examining transactions between FLRA and GSA and FLRA and the contractor, for the furniture and furnishings, that the funds utilized to purchase the furniture and furnishings were from a 1979 1-year appropriation. They were initially obligated in their entirety to GSA in 1979. We found no indication that these funds were ever deobligated. The contract awarded in 1981 by FLRA obligated these same funds apparently without any available budget authority.

Finally, preliminary results indicate that, while FLRA was only 2 years old at the time of the 1981 furniture contract, thousands of dollars of serviceable furniture was either in storage and/or was being surplused.

This concludes my prepared statement, Mr. Chairman. I would be happy to answer any questions.

[Enclosures I and II referred to by Mr. Gilroy in his statement follow:]

ENCLOSURE I

ENCLOSURE I

PRESIDENTIAL APPOINTEE

FURNITURE CONTRACT-FLRA #81-C-0002

		Value
Basic contract (June 5, 1981) 115 pieces of office furniture		$ 88,808.13
Modification #1 (July 16, 1981) -19 pieces +106 pieces	+$ 50,758.59	139,566.72
Modification #2 (Aug. 17, 1981) Substitution of one piece	+ 61.00	139,627.72
Modification #3 (Sept. 18, 1981) Carpet, wallpaper, and drapes	+ 117,036.45	256,664.17
Modification #4 (Jan. 19, 1982) Substitution	- 1,313.50	$255,350.67

Source: FLRA Contract File - April 1982

ENCLOSURE II

ENCLOSURE II

DISTRIBUTION OF FURNITURE UNDER

FLRA CONTRACT 81-C-0002

		Value
CHMN.		
Furniture	$ 32,063.70	
Carpet, drapes, wallpaper	23,064.47	$ 55,128.17
MEMB. F.		
Furniture	40,712.67	
Carpet, drapes, wallpaper	16,808.13	57,520.80
MEMB. A.		
Furniture	30,332.79	
Carpet, drapes, wallpaper	15,200.33	45,533.12
GEN. COUNSEL		
Furniture	-0-	
Carpet, drapes, wallpaper	22,754.65	22,754.65
AGENDA ROOM/OTHERS Furniture, carpets, drapes, and wallpaper	64,793.85	
UNDELIVERED, AND/OR IN STORAGE	$ 9,620.08	
TOTAL		$255,350.67

Source: GAO Inventory - April 1982.

Senator DANFORTH. Thank you very much.

Is it your position that the purchase of this furniture and the wallpaper and so on was unlawful?

Mr. GILROY. I do not know if you would want to say unlawful. I would turn to counsel on that one. It happened in 1979. The money, $860,000, was obligated to GSA in its entirety. To then go elsewhere and negotiate a contract and use these same funds certainly raises problems because the funds were obligated in their entirety to GSA.

Senator DANFORTH. This agency was spending money that it had previously obligated to GSA. Furthermore, it was spending money in direct contravention of an OMB order. Is that correct?

Mr. GILROY. That is correct.

Senator DANFORTH. Does that order have any teeth in it, or is it just advisory?

Mr. GILROY. It's advisory, but it is sent out to the heads of departments and establishments. It requires them or directs them to obtain a waiver if they are going to buy furniture in lieu of this order.

Senator DANFORTH. Is there any way that the Government can recover the cost of this furniture?

Mr. GILROY. I doubt it, but I do not know. Perhaps counsel should comment on that.

Mr. BEDRICK. If the expenditures for the furniture are ultimately determined to have been illegal, then there would possibly be an action to recover the money from the officer of the agency who actually certified the vouchers that authorized the expenditure of funds.

Senator DANFORTH. Who would bring that, the Justice Department?

Mr. BEDRICK. The initial finding that the expenditure was improper could be made by the agency or by the General Accounting Office. Then the agency itself is responsible for making collection. If the agency is unsuccessful, ultimately the matter is turned over to the Department of Justice.

Senator DANFORTH. Now, just going through the chronology of this, Mr. Gilroy, it is my understanding that in 1981 this agency did not start from scratch buying furniture. As a matter of fact, the initial purchases were made in 1978; is that correct?

Mr. GILROY. That is correct.

Senator DANFORTH. How much furniture was purchased at that time?

Mr. GILROY. Our records show upward of $250,000 was spent in 1978.

Senator DANFORTH. Do you have a more precise figure in mind or is $250,000 somewhere in the range?

Mr. GILROY. Unfortunately, we have not been provided with a more exact figure. It is in the $250,000 range.

Senator DANFORTH. Was that furniture for the entire Authority or was that furniture for the members' offices? How was that divided up?

Mr. GILROY. It was for the national headquarters.

Senator DANFORTH. For the whole headquarters they were in. It was not for the members' offices? How much of that was for the members' offices?

Mr. GILROY. We have some figures. Currently, the Chairman's office has about $15,000 worth of furniture from 1978. The other two members each have about $10,000 worth of this furniture.

Senator DANFORTH. That would be about $35,000 worth of furniture in these three offices that is still around from the 1978 purchase?

Mr. GILROY. That is right.

Senator DANFORTH. Over and above the $35,000 for these three offices, there have been additional purchases of $158,000 for these three?

Mr. GILROY. Yes, sir.

Senator DANFORTH. Is some of the furniture or is all of the furniture that was purchased for these three offices in the offices now, or is some of it elsewhere?

Mr. GILROY. Some of it is in storage. Some of it has been surplused. We do have some photographs, Mr. Chairman, that we can show. These photographs show furniture in warehouse storage at the Navy Yard.

Senator DANFORTH. That is a photograph of furniture which was bought for this Authority. Do you know when?

Mr. GILROY. We believe, in 1978.

Senator DANFORTH. It was leftover furniture from 1978.

Mr. GILROY. That is a photograph of an executive-style desk, Mr. Chairman. That is also in storage.

Senator DANFORTH. At the time this was in storage, the agency was proceeding to purchase more, or the Authority was proceeding to purchase more?

Mr. GILROY. That is right.

Senator DANFORTH. Now, would you go through the process chronologically on how and when the agency had bought this?

Mr. GILROY. Perhaps we should start with the agency's hiring a private firm called Kress Associates to come in and decide what was needed. This was a contract for $20,000. It is a service that could have been provided by GSA.

Senator DANFORTH. GSA could have provided it. This is what amounts to an interior decorator's fee of $20,000?

Mr. GILROY. Yes, sir.

Senator DANFORTH. GSA would do it free?

Mr. GILROY. Yes, in the sense that the service was available from GSA. Instead, Kress Associates gave the members catalogs from which to choose their furniture. The members picked out their furniture, and the Authority (FLRA) placed the solicitation in the Commerce Business Daily. This was March 30, 1981.

At that time, there was a ban in effect on furniture buying. The FLRA, however, went ahead and placed the solicitation.

Senator DANFORTH. Did the members of the FLRA, to your knowledge, know of the ban on the furniture purchases?

Mr. GILROY. We believe so. There was a copy in the contract file of the notice of the ban on furniture. So it is our belief they were aware of the ban.

Senator DANFORTH. Do you believe they had any knowledge as to the cost of the furniture?

Mr. GILROY. As to the cost, I do not know if they knew the exact cost. We do have a copy of a memo from one of the members to the contracting officer that is dated December 30, 1980. The attachment to the memo does have a price list. Now, if that attachment were attached to the memo at that time, there was knowledge, a general knowledge, of the price of these pieces of furniture.

Senator DANFORTH. Who was that member?

Mr. GILROY. It was member Frazier.

Senator DANFORTH. Would you go back to the solicitation and the chronology?

Mr. GILROY. All specifications were for a specific brand name. Normally, procurements will cite brand names or equal because just saying "brand name" eliminates someone that may be able to come up with a similar or better or equal type product.

Senator DANFORTH. Asking for the brand names tends to create a higher price than asking not for brand names but something that is equal?

Mr. GILROY. It can inhibit competition.

There were six bids received, and the lowest bid was $88,808.13 by Alternative Design. They received a contract.

Senator DANFORTH. On what date did they receive the contract?

Mr. GILROY. On June 5, 1981.

Senator DANFORTH. And OMB's bulletin restricting the purchase of furniture was issued when?

Mr. GILROY. On January 30, 1981.

Senator DANFORTH. So, in January, the OMB issues its order, and on June 5, the contract is entered into. The contract is in the amount of $88,808?

Mr. GILROY. Yes, sir.

Senator DANFORTH. Somehow the amount went from $88,808 to $255,000?

Mr. GILROY. Yes. There are two major changes to the contract. On July 16, an additional 106 pieces of furniture were ordered. Nineteen pieces were deleted. This resulted in an additional cost to the contract of $50,758.

On September 18, the contract was changed again to include carpeting, wall coverings, and drapes at an additional cost of $117,000.

Senator DANFORTH. Were those changes competitively bid?

Mr. GILROY. No, sir, they were not.

Senator DANFORTH. Then what happened?

Mr. GILROY. Perhaps we should get into the accounting. At the end of fiscal year 1979, the initial FLRA appropriation of $860,000 would have lapsed if not obligated. Because the agency at that time did not have a headquarters, it could not spend the money on decorating. Instead, the FLRA obligated all the money to GSA.

Then on June 5, 1981, a contract was entered into with Alternative Design and the funds used were the funds that had already been fully obligated to the GSA.

Senator DANFORTH. They were spending money, in other words, which they did not have?

Mr. GILROY. That is right.

Senator DANFORTH. The only way they could have purchased this furniture was through GSA?

Mr. GILROY. I would say legally the only way for them to go was through GSA.

Senator DANFORTH. How could that have happened?

Mr. GILROY. How?

Senator DANFORTH. How could you buy furniture when you do not have the money and get the bill paid when you do not have the money to pay it?

Mr. GILROY. It's a puzzle to us also. First, FLRA obligates the funds to GSA, and then using the same funds enters into a contract. They used the same funds that were fully obligated to GSA. I hope FLRA will eventually provide an answer.

Senator DANFORTH. Either the money would have lapsed or it would have been GSA's. They could not keep it themselves and spend it, is that right?

Mr. GILROY. That is correct. If it had not been with GSA, it would have lapsed at the end of 1979.

Senator DANFORTH. Let me ask you this. The patio furniture—what condition was that in when it was sold?

Mr. GILROY. It was new. It was new and unused. The patio furniture, as I mentioned in my statement, was purchased apparently thinking they would have access to a patio, which was later denied. We do have a picture of the patio furniture, Mr. Chairman.

Senator DANFORTH. Those are umbrellas and two tables with umbrellas in the middle?

Mr. GILROY. Yes, sir.

Senator DANFORTH. And they are a brand name?

Mr. GILROY. They are a brand name.

Senator DANFORTH. The agency disposed of the furniture, is that correct?

Mr. GILROY. The agency transferred the patio furniture to another agency. We understand, just recently, that is, on May 13, they did.

Senator DANFORTH. And it was designated "Condition 4." What does that mean?

Mr. GILROY. That means "serviceable, but used." As you can see, the furniture is new and unused.

Senator DANFORTH. Why would they have done that?

Mr. GILROY. We can only speculate. You can transfer property without going through GSA if the total cost of that property is less than $2,000. The patio furniture cost $2,400, but the transfer shows the total cost to Interior at $1,980. It was priced differently than what they had paid for the furniture.

Senator CHILES. You said you are still looking into this transfer of funds. In other words, the startup money they put into GSA had to be drawn out of some account. If the money went to GSA, how did they get it back out of GSA if they did not go through GSA for the purchase? How did they write a draft for the money?

Mr. BEDRICK. The money that they used was $860,000, which had been appropriated to them in a 1979 supplemental appropriation. It was appropriated for this purpose, for refurbishing and renovating. They obligated the money to GSA, which essentially means they entered into a contract that GSA would do this work as it was called upon to do so. The money then was not actually spent. It remained in the account. It was obligated. They later called on GSA to perform some work.

Senator CHILES. You say it remained in the account. There was no transfer made when they notified GSA that they were obligating the money to them?

Mr. BEDRICK. I do not believe that a transfer needed to take place at that time. This was like an open-ended contract, simply saying we are obligating this money so it will remain available for subsequent work to be performed by GSA as we call upon them for the effort. The money would not actually need to have been transferred to GSA until GSA came in and did each particular task that the Authority called upon them to do. That might have taken place in subsequent fiscal years.

Senator CHILES. You are saying it would suffice to keep the money from lapsing if you simply write a letter to GSA and say, "We are obligating the money to you with no transfer of money, no transfer of accounts, no change whatsoever."

Mr. BEDRICK. It generally suffices to keep the money available if there is a valid obligation before the end of the fiscal year. We are looking at the question of whether this was, in fact, a valid obligation.

Senator CHILES. If there were not a valid obligation and the money lapsed or if there were a valid obligation, then wouldn't the money actually be under the control of GSA?

Mr. BEDRICK. I believe that, when the money is obligated, that is an accounting transaction which sets it aside on the Authority's books. It means the money is now not going to lapse at the end of the fiscal year. The money is only available for payment of this particular contract.

I do not think the expenditures which would transfer the money to GSA would necessarily take place until later.

Senator CHILES. It sounds like me. I could write a check and submit the check to GSA and say, "Hold the check. Don't spend it. I am giving you the check." I will draw the money on that, then go write another check. I would spend the money that I had given the check to GSA for.

Mr. BEDRICK. That is a very good analogy. This was, in a sense, an overdraft. Had GSA come back to FLRA and asked for the money for work it had performed, it is possible, because of the sequence of events, that the money would not have been there.

Senator CHILES. When somebody performs the audit, it seems to me that the audit has to say that either they spent the lapsed funds or the money actually had to go to GSA. Therefore, they could not buy the furniture without authorization from GSA. I cannot understand how they could have it both ways.

Mr. BEDRICK. Yes, sir. That is the way it appears to us. Either the money was obligated to GSA, in which case it was not available for the subsequent purchases from sources other than GSA, or it had lapsed and was still not available for the purchases after fiscal year 1979.

Senator CHILES. When will your findings be complete on this?

Mr. BEDRICK. When we complete the review, we hope to make a finding on this issue, also.

Senator CHILES. You said that there was no rebidding when they changed the contract and they went from $88,000 to actually over $200,000. Should there have been?

Mr. GILROY. There could have been. It was a change of scope, as we see it, from the original contract. It could have been competitively bid.

Senator CHILES. Can you enter into a contract with a competitive bid and then triple that contract by the changes and never competitively bid it again?

Mr. GILROY. It is done, sir. It is done perhaps more frequently than it ought to be done. There is competition up front, and heavy modifications to the contract.

Senator CHILES. There is no limit as to what you can modify and what becomes a complete change. You can allow people to low ball in a situation like this and get away no matter what the limit is. Isn't that called low balling?

Mr. GILROY. Yes. However, the contracting officer has the inherent requirement to seek the best price and should go out and seek competition if he or she changes the scope of the contract.

In this case, the items that were later purchased were not in the basic contract.

Senator CHILES. But there is no GSA or OMB regulation or guideline that says if you are going to triple the contract price after the original bid that you can go back and rebid that?

Mr. GILROY. I do not think that there is any regulation that specifically states that.

Senator CHILES. Thank you.

Senator DANFORTH. There should be.

Thank you.

We have some back-to-back votes beginning at 11 o'clock. I think we should hear from the three members of the Authority. We shall hear from Mr. Haughton, Mr. Frazier, and Mr. Applewhaite. Who would like to proceed?

TESTIMONY OF RONALD W. HAUGHTON, CHAIRMAN, FEDERAL LABOR RELATIONS AUTHORITY; HENRY B. FRAZIER III, MEMBER, FLRA; LEON B. APPLEWHAITE, MEMBER, FLRA, ACCOMPANIED BY DR. GUY RANKIN, DIRECTOR OF ADMINISTRATION, FLRA, AND BETTY MAYO, STAFF ASSISTANT TO MR. APPLEWHAITE; AND JAMES J. SHEPARD, EXECUTIVE DIRECTOR, FLRA

Mr. HAUGHTON. Since the Authority was established 3 years ago, it has functioned with three members sharing responsibility equally in administrative matters. We now recognize that this system of administration by committee does not work.

I have heard Mr. Gilroy's testimony today, and it makes that clear. We did have the opportunity to check with some of Mr. Gilroy's associates, and we were aware of what we consider the hopeless nature of having a three-person committee operation. Accordingly, effective today, the members of the FLRA have delegated to the Chairman the responsibility and authority for the management of internal administrative affairs. This means that all agency procurements of over $1.000 will have to be personally approved by me.

As I look back on where we were, I find I did not sign anything. I am just as amazed as you two Senators are and as Mr. Gilroy is. We have

moved on this. A copy of our action is being sent today to the appropriate Senate and House committees. I have a copy of the one that was sent to you. In no way is this intended as a surprise.

We knew that we had to do something drastic. The procedure will be that there will be my signature of approval on all procurements, whether generated by the General Counsel, the Authority, or anybody else. In addition, I will meet with the Executive Director and his deputy at least once a week to monitor this whole new procedure.

I would like permission to include a copy of this new procedure in the record of these proceedings.

Senator DANFORTH. That may be put in.

[The information referred to follows:]

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
500 C STREET SW. WASHINGTON, D. C. 20424
(202) 382-0700

OFFICE OF THE CHAIRMAN

May 20, 1982

The Honorable John C. Danforth
Chairman, Subcommittee on Federal Expenditures,
Research and Rules
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On May 6, 1982, in testimony before the Senate Subcommittee on Treasury, Postal Service, General Government, we proposed to consolidate responsibility and authority for the management of internal administrative matters of the agency in the Chairman of the Authority. We noted that our experience over the past three years has led us to the conclusion that it would be more efficient to manage the day-to-day internal administrative affairs of the agency by a single individual than through what up to now has been in essence a committee system.

We believe that the time has come to act on this matter. Accordingly, effective today the Members of the Authority have delegated to the Chairman responsibility and authority for the management of internal administrative matters, which include procurement, fiscal management, personnel management and office services. This is with the understanding that the Chairman will have discussions with the Members of the Authority and the General Counsel with a view to reviewing this delegation as necessary. A copy of the memorandum describing the Authority's action to delegate is enclosed.

The Members of the Authority unanimously join in this action. It is hoped that this action is acceptable to your Subcommittee and to the Authority's Appropriations and Oversight Committees in the Senate and House of Representatives, which are also being provided with copies of the memorandum today, and further that the Department of Justice's Office of Legal Counsel has no question as to its legal sufficiency.

Sincerely,

Ronald W. Haughton, Chairman

Henry B. Frazier III, Member

Leon B. Applewhaite, Member

Enclosure

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MEMORANDUM DESCRIBING THE MANAGEMENT OF INTERNAL

ADMINISTRATIVE FUNCTIONS OF THE FEDERAL LABOR RELATIONS AUTHORITY

(EFFECTIVE MAY 20, 1982)

The Federal Labor Relations Authority was established as an independent agency in the Executive Branch by Reorganization Plan No. 2 of 1978, effective January 1, 1979 (3 C.F.R. 323, 327 (1979), reprinted in 5 U.S.C. app., at 357, 359 (Supp. III 1979)). Since January 11, 1979, the Authority has been continued under and has administered the provisions of the Federal Service Labor-Management Relations Statute (5 U.S.C. §7101 et seq.).

This Memorandum is intended to describe the management of internal administrative functions of the Federal Labor Relations Authority, effective May 20, 1982.

1. The Members of the Authority hereby delegate to the Chairman responsibility and authority for the management of internal administrative matters, which include procurement, fiscal management, personnel management and office services. This is with the understanding that the Chairman will have discussions with the Members of the Authority and the General Counsel with a view to reviewing this delegation as necessary.

2. The Chairman will have full responsibility and authority to take whatever actions are necessary to insure that all procurement and purchasing actions are totally consistent with governing requirements and all existing fiscal, legal and regulatory constraints. In this regard, effective today and until further notice, all requests for procurements of over $1,000 must be submitted to the Chairman for approval. Approval will be granted only if the procurement request is accompanied by a statement from the requester certifying that the procurement conforms to all existing requirements and constraints. The Chairman will meet at least weekly with the Executive Director and/or his Deputy to discuss and monitor the Authority's administrative operations.

3. As to major budgetary actions of all elements of the Authority, the total amount of any annual budget requests, the apportionment and allocation of funds, and/or the establishment of personnel ceilings shall be determined by the Members of the Authority. However, where these matters involve the operations of the Office of the General Counsel, the determinations shall be made jointly by the Members of the Authority and the General Counsel.

4. As heretofore, the General Counsel shall have direct authority over, and responsibility for, all employees in the Office of the General Counsel, including employees of the General Counsel in the regional offices

of the Authority (5 U.S.C. §7104(f)(3)). This includes full and final authority, in accordance with applicable laws and regulations, over the selection, retention, transfer, promotion, demotion, discipline, discharge and in all other respects of such personnel, except the appointment, transfer, demotion or discharge of any Regional Director. The Authority shall appoint such Regional Directors as it finds necessary for the proper performance of its functions (5 U.S.C. §7105(d)). The appointment, transfer, demotion or discharge of any Regional Director may be recommended by the General Counsel, and such actions may be taken upon the approval of the Authority. Further, the establishment, transfer, or elimination of any regional office or non-regional office duty locations may be accomplished by the General Counsel upon the approval of the Authority.

5. With respect to personnel management of the staff of the Authority, actions to establish and abolish positions in the Senior Executive Service (SES) and to appoint, transfer, demote or discharge members of the SES or supervisory employees at grade GS-15 or above will be taken by the Members of the Authority in accordance with applicable laws and regulations. Personnel employed regularly and full-time in the immediate office of a Member shall not be subject to the authority of another Member.

Ronald W. Haughton, Chairman

Henry B. Frazier III, Member

Leon B. Applewhaite, Member

Dated: May 20, 1982

Mr. HAUGHTON. The procedure will require approval of all procurements over $1,000. There are internal details about administration of the General Counsel's Office which tracks the existing regulations. If there are any other formal actions that must be taken, we will take care of them through the Federal Register.

I will now continue with my statement. With me are members Henry Frazier and Leon Applewhaite. They also have statements to present.

As Chairman of the agency, with no explicit statutory authority as chief executive officer, my basic responsibility is to decide cases. In doing so, I have applied some 40 years of experience of arbitrating and mediating labor disputes. When it comes to Federal procurement procedures, I am not an expert, and I am appalled at what can happen.

My experience is to rely on a staff whose responsibility it is to be knowledgeable in matters of financial administration and procurement. This is sound management practice. I have followed this in other positions. I expect that staff decisions and recommendations concerning procurement be fully consistent with both the letter and the spirit of applicable law and regulations. I have made this clear. The staff has consistently told me that is so. I know there is no venality involved.

With regard to the selection of furnishings for my office, conference room, and secretary-reception office, which you gentlemen have visited this morning, I assigned this task to my assistant and my secretary. I told them to work this matter out with the appropriate people on the staff.

My record for these 3 years is not to mess around with furniture. I have no interest in it. I specifically told my assistant and secretary and other staff at the time, "I do not want anything to do with it." In fact, I had nothing to do with the selections.

This delegation, I must add, does not excuse me from responsibility. What saddens me is neither I nor the Federal Times nor your committee heard allegations of improper procurement procedures until after the purchases were made. I would like to have heard about these before the final processing of the papers.

Somebody processed those papers. Whoever that somebody is—somebody who alerted your committee and the Federal Times and ultimately me—I am very sad that the alerting was not given to me before the final processing of papers, instead of after the fact of final purchase.

As I stated in my letter to you of February 19, Mr. Chairman, my first knowledge of the cost of the furnishings was in early November 1981. That was shortly after we moved from four locations to here, where we have one central agency. I saw the furnishings for the reception area, for my assistant, and for my secretary and me. I asked what they cost. This was before the table that we saw had even been put in. It was in the outer office. I expressed genuine shock.

I immediately requested the most expensive items be returned unused to the contractors, even if the agency had to take a penalty discount. Shortly thereafter, our Executive Director informed me that this could not be done. He made a check and came back the same day. I repeated my request. After he checked further with the staff, the Executive Director again stated it was not possible to return these items.

Nonetheless, the table in my conference room was so unacceptable to me that I had it moved to another conference room. When questions arose about our purchases, I had the table moved back because I did not want to create an impression that I was trying to disclaim responsibility. The table offends me, but it is there.

As I noted in my letter of February 19 to you, the whole set of procedures bothered me. I thereupon asked our Executive Director to report to me as to the overall efficacy of the agency's procurement procedures and as to their compliance with GSA standards. I also asked where the procedures were defective and for recommendations to remedy them. I referred the Executive Director specifically to my February 19 letter to you, Mr. Chairman, wherein I said, "If there are any defects, and it is likely that there are, I will ask the help of the General Accounting Office to build into our procurement process maximum protection procedures."

The Executive Director reported back on February 23. He found that our procurement process was defective, and in a letter of March 1 on behalf of the Authority to the Comptroller General, he asked the assistance of GAO "on the whole matter of a review of our procurement procedures to assure that they are as effective as possible."

Of course, in the meantime, you made a similar and much more sweeping request of GAO, and we were delighted that their auditors came in. They have worked well with us, and I have never seen a more professionally handled job than has been done by these two men who are in here for GAO. They are professionals. They have been doing their job well and, at the same time, have established a good rapport with people in the agency. They already have been most helpful.

They found facts, and I said to one of them the other day, "You know more about this agency than I do by this time." He smiled and he said, "I probably do."

As requested, the GAO has been conducting an extensive review. I have cooperated fully, and I have no reason to believe that the staff has not. If GAO should tell me that anybody on the staff did not cooperate fully, I would want to know, and we will take appropriate action.

Other than in the course of some three meetings with the GAO staff, all very salutary, this morning's testimony by Mr. Gilroy is my first opportunity to hear preliminary results of the inquiry. We, too, are awaiting the full report and recommendations so that we may take appropriate corrective action.

Thank you, Mr. Chairman. That completes my statement.

Senator DANFORTH. Who would like to proceed next?

Mr. FRAZIER. I regret very much that the procurement activities of our small, fledgling agency are in such a sorry state as to require this committee to hold hearings. Nevertheless, I appreciate the opportunity that you have afforded me to appear before you here today to shed what light I can on the procurement of furniture for the FLRA.

To put these procurement activities in perspective, I think I should begin—because I am, in essence, the one with the longest tenure in the Federal labor relations program, among the three members—by pointing out that the FLRA was established as a new agency of Government in January 1979. Until that time, the labor-management relations

program had been administered, in part, by the Assistant Secretary of Labor and, in part, by the Federal Labor Relations Council, which was composed of the Chairman of the Civil Service Commission, the Director of OMB, and the Secretary of Labor. Thus, in January 1979, the four Presidential appointees, who had been serving part-time in the administration of the program, were replaced by four full-time Presidential appointees, the three of us and the General Counsel.

As a new agency in 1979, the FLRA was faced with a myriad of problems which any new agency faces. The most pressing need that we faced, and I think this might have been somewhat unique, was the need to establish an internal administrative capability because neither of the major organizational components transferred from the FLRC and from the Assistant Secretary of Labor had such a capability. Of course, such a capability was necessary to handle internal essential housekeeping and service functions, such as preparing and justifying budget requests, hiring personnel, preparing payrolls, providing office services, and procuring needed supplies, equipment, office space, and furniture.

We began without adequate office space or, in some cases, without any office space at all. In Washington, where our national headquarters is located, and in the nine regional cities and in several subregional cities where field offices were established, we were faced with the immediate problems of leasing adequate office space, procuring additional furniture and equipment for these offices, and in recruiting, assigning, and training a sufficient staff to meet the workload at each site. In fact, the major responsibility for locating and securing office space in all of these places, and in procuring furniture and equipment for those offices, fell to a single individual. We had only one experienced contracting/procurement officer on the staff. He was a single staff member attempting, in my opinion, to achieve administrative miracles under the most pressing circumstances.

I, as a member, along with my fellow members, was devoting my time and attention in those days to our basic mission, as we have ever since; namely, the resolution of labor-management disputes and deciding cases to resolve those disputes.

When Congress enacted the Civil Service Reform Act, there was no hiatus or interim period between the administration of the old Executive order and the administration of the new statute. We had to move from one to the other overnight, and we had to clear up a backlog of about 1,000 cases transferred from the Assistant Secretary of Labor to the FLRA and about 50 additional cases transferred from FLRC.

At the same time, we had to prepare substantive and procedural regulations to carry out the requirements of our statute, solicit comments and revise these regulations as necessary, and publish them in final form so that we could begin processing cases under the new statute.

My fellow members and I were appointed to our positions because—we were told, that is—because of our substantive expertise in labor-management relations. I have, since my appointment, attempted to devote my time and energies to the substantive mission of the agency, namely, deciding cases, leaving such matters as internal administrative support for the most part to the experts on the staff, or those whom we have since brought on board to provide this administrative capability.

I believe I can say, as Chairman Haughton indicated, with the full concurrence of the others, that none of us possesses any qualifications as a procurement expert. Our agency was not established to carry out a procurement mission, and in fact, I think, after the initial procurement of furniture to get the agency started, it is highly unlikely the agency would ever have a significant procurement again.

I have been involved to some degree as a nonexpert, if you will, in two furniture procurement actions for the FLRA. The first of these was in 1978. That came up in the earlier testimony. This procurement was before the FLRA had come into being, while I was executive director of FLRC. The second of these procurements was the procurement in 1981, after I had become a member of the FLRA. My role in each instance differed. I will attempt, to the best of my recollection, to reconstruct what happened so far as I was concerned.

Each of these procurement actions represented some of the initial purchases of permanent furnishings for the new agency and included furniture, drapes, carpeting, and wall covering for each of the Presidential appointees and their personal staffs.

To go to the first procurement, in August 1978, when it became apparent that the FLRA would be established, Scotty Campbell, Chairman of the Civil Service Commission and of the FLRC—in other words, my immediate superior—asked me to begin planning for the new agency and the administration of the new statute.

As to the administrative plans of the new agency, because we had no internal administrative capability, I was instructed to work with the administrative staff of the Civil Service Commission. That staff provided administrative support and services to the FLRC, pursuant to a provision in Executive Order 11491 which we administered. As a result, there was no internal administrative capability within the FLRC. We had to rely on the CSC, the Civil Service Commission, to carry out our initial administrative functions.

About the same time, in 1978, the Department of Labor, working through OMB, agreed to transfer about $400,000 to help get the new agency, the FLRA, established. The most immediate and pressing need of the new agency was furniture and equipment. It was evident that the agency would need basic furniture items for the four full-time Presidential appointees who had not yet been named, as well as general-use furniture for hearing rooms, conference rooms, and a library. It was understood that the FLRC personnel and the Department of Labor personnel who were being transferred to the FLRA would be consolidated with newly hired employees and with the newly authorized Presidential appointees at a new national headquarters office location. In fact, at the time, in the summer and fall of 1978, we were shown some possible sites for these offices in Arlington County and Fairfax County.

In coordination, therefore, with the representatives of the Civil Service Commission staff and the regional office of GSA, some furniture for the members' offices and the general-use facilities was ordered. Experts in office layout and interior design and decorating who were employed on the staff of GSA—and, I believe, contrary to what was said earlier this morning, they do charge a fee—advised us as to what types of furniture were authorized and appropriate. They developed a proposal for this procurement, which I approved without

change. Since I am not qualified to make technical determinations concerning either office layout and design, or what office furnishings are authorized by GSA, or the method by which that furniture is to be procured, I left these matters to the qualified experts of GSA and CSC.

At that time, I had not been approached about possible appointment or being appointed to a member's position on the FLRA. However, as executive director of the FLRC, I knew that I would be transferred to the new agency along with all other employees of the FLRC. I assumed I would have some position of responsibility at that time on the career staff of the agency. I considered it important, from the standpoint of those who would likely be appointed members and the General Counsel, that they had desks and minimal office furniture to use and that the agency had sufficient initial furniture for hearing rooms, conference facilities, and a library where the staff could do the basic work in carrying out the agency's substantive mission. Since we had no final decision as to the location of the FLRA national headquarters and, therefore, no floor plan to work with, the GSA experts recommended the procurement of a minimal amount of furniture which would afford the members an opportunity to begin working their first day on the job.

I was advised that once office space had been located and a floor plan had been developed, the members could then supplement this furniture with additional items to meet agency needs. Everyone was hopeful that GSA could move quickly to find office space for the national headquarters of the FLRA so that we could all move into it no later than early 1979.

As it turned out, that did not happen. We did not move into our new offices until October 1981. In the meantime, some of this furniture, which had been placed in temporary storage as it was being received, was transferred to the offices of the members in their interim location in the OPM building, the old Civil Service building.

The second procurement, and the one which initiated your inquiry, was contract number 81–C–0002, about which you wrote us in February of this year. The furniture which was procured under that contract constituted a supplementary procurement which had been envisioned at the time of the initial procurement in 1978, and which would be made after the floor plans had been developed for the agency's national headquarters. The furniture, draperies, carpeting, and wall covering which were purchased under this contract represented some of the initial purchases of permanent furnishings for the new agency.

In the supplemental budget request of fiscal year 1979, the FLRA, or we as members of the FLRA, requested $1,789,000, of which the $860,000 mentioned earlier today was included as one-time and nonrecurring costs to pay for expenses related to the startup physical establishment of the agency. This supplemental budget request was approved by Congress in late July 1979. I am advised that the $860,000 startup money was obligated by FLRA reimbursable work authorization in fiscal year 1979 to cover costs of renovating office space, purchasing equipment and furnishings, designing and installing communications systems, and other expenses associated with our eventual move into our first national headquarters office space.

During 1979 and 1980, GSA attempted to locate office space for the national headquarters of the FLRA. In the meantime, our people were housed temporarily in several locations in downtown Washington, including some at the Department of Labor and some at OPM.

After one false start in 1980 involving office space at 1776 M Street NW., GSA in 1981 finally assigned the FLRA office space in our current location at 500 C Street SW. The office layout and design work which had been developed for the M Street location was scrapped, and a new layout had to be designed for the C Street location. New floor plans were prepared by the office layout and interior design experts whose services, I was advised, had been procured by the FLRA. That was the Kress Associates firm mentioned earlier. After several revisions to insure that they were in conformance with existing standards, GSA approved the final blueprints. I do not know if GSA drew them up and approved them, but at least GSA did approve them.

In the meantime, the agency had ordered the additional furniture that would meet the remaining needs of the members, as reflected by the original floor plans developed for their offices and related work areas. That part of the furniture, carpeting, draperies, and wall covering purchased under this contract and identified for my use was for my personal office, as well as the office space of my executive assistant, the office space for my staff assistant, a reception area, an agenda/work room, and a file room—all of which you gentlemen have toured this morning.

Thus, the expenditures which were related to these furnishings were not, as was implied earlier, for my personal office alone, but for a series of offices and related work areas. This furniture was purchased solely for agency use. In no way have I ever considered it "my" furniture. This furniture was selected for use by me and my personal staff and for the use of my successors and their personal staffs.

In selecting the furnishings for the offices and the work areas that my staff and I use, I was shown photographs of office furniture and fabric samples by the interior design expert. I was asked to designate furnishings I would propose for use in the office and work areas involved. No price list was included in the material put before me. I understood that this was because the prices were to be set by competitive bid.

I have stated that I was not aware at the time of the selection or the purchase of the furniture of prices associated with the individual pieces. This is correct. I did not learn of the prices until the furniture began to be delivered.

However, I have recently discovered that some information regarding estimated prices for several listed items has been in my office files. To reconstruct that, in December 1980, my staff assistant received a listing of certain items—not all of the items that were procured for my office, but certain of the initial items selected—with estimated retail prices from our contracting officer. When she told me she received a list of the furniture designated for our offices, I quickly dictated and initialed a note to the contracting officer, the purpose of which was in the nature of a confirmation—to jog his memory to insure he did not forget to order the furniture that the interior design people had sub-

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mitted to him on this list. I did not review the list or take any note of the prices. There was no discussion between me and my staff assistant regarding prices, although I did ask her to review the item listing before she sent the note back to insure the list was accurate and complete and that it included all of the items the interior design people had described to us.

Now, in designating the types of furnishings that I considered appropriate for these offices, when I was going through the selection process I considered several factors.

First, I considered the size and layout of the offices, the agenda/work room, reception area, and file room, as reflected in the floor plans developed by the office designer. I should note at this point these floor plans were later altered and reduced in size to conform to the GSA standards when GSA either drew or approved the final blueprints.

Second, I considered the style, type, and quality of furniture which had been selected and procured with the advice and assistance of GSA in 1978. In fact, some of the furniture selected at this time was of the identical style, quality, and manufacture as that procured in 1978. For that reason and because it was very similar in style and quality to that which I had seen in other newly decorated Federal offices in the last few years, I had no reason to believe this furniture was not authorized for procurement by Federal agencies.

Third, I recognized that I was involved in the process of selecting permanent furnishings, not for my use alone but for the use of my successors. Hence, I felt the items should be of sufficiently good quality that they would last through the terms of several members and would be fairly conventional in style and design so that those who followed me in office would find these furnishings acceptable to their needs.

These are the factors which guided me in my judgment at the time. In retrospect, my judgment can surely be questioned, but I can assure you in making these determinations no impropriety was sought or intended by me. I did what I did in good faith, relying on the advice and expertise of those who were technically qualified in office design and procurement.

After I completed the process of designating the items which I proposed for the offices and work areas which my staff and I were to use, the description of the items was given to the procurement staff of the agency by the office design expert, whose services had been procured by the same staff. At some subsequent point in time, I was advised—I do not recall the precise time—that a moratorium on furniture procurement had been imposed—this must be the 1981 moratorium referred to earlier—and that no action would be taken to procure furnishings for use by the three members unless and until the agency was granted an exception to the moratorium.

I should note for the record at this point that when I was told that the furniture could not be ordered at that time because of the moratorium, this word was passed to me from the staff to my staff to me. I accepted the fact. I certainly did not seek or ask anyone on the staff to violate any requirement of law or regulation that governed the procurement of furniture.

Some time later, I learned from the staff through my staff that the moratorium, as it applied to our agency, had been lifted. The staff had placed an order for the furniture through the competitive bid

process designed to establish the lowest possible price for the furnishings involved. Thus, I am advised it was through an open, public, competitive process, as was described here earlier today, that the cost of the furniture was established. Nothing about the procurement was concealed. It was advertised in the Commerce Business Daily.

Senator DANFORTH. I have to interrupt you. We will be back in about 25 minutes.

Mr. FRAZIER. I shall be here, sir.

[Recess.]

Senator CHILES. You may continue at this time.

Mr. FRAZIER. I understand there were some technical and regulatory deficiencies in the manner in which the procurement was handled, in the view of the GAO witnesses. That was what was testified to earlier this morning. I am not qualified to judge whether this procurement or the other procurements which have been reviewed by GAO have followed established requirements and procedures.

I, along with my fellow members and the General Counsel of the Authority, delegated to the Executive Director of our agency "the final authorities of the Federal Labor Relations Authority [FLRA] in . . . property management, procurement, and contracts." The Executive Director, in turn, delegated to the Director of Administration this final authority in a delegation dated September 11, 1979. Such delegations are, of course, common within the Government, and those who serve as the head of an agency must delegate if the agency is to operate.

I assume my part of the responsibility for the procurement of this furniture. Unfortunately, no indication of any problem concerning the procurement was brought to my attention by the staff, just as the Chairman testified earlier today. Had any potential problem been referred to me, I can assure you I would have taken immediate action to insure the problem was resolved in accordance with established procurement procedures and Government requirements.

In retrospect, I deeply regret that I did not take the time to become more directly involved and to exercise a greater degree of personal attention and managerial direction, particularly with respect to that part of the procurement involving my offices and those of my immediate staff.

I was stunned by the prices of some of the items. Had I learned of the prices that the successful bidder had set, I assure you those items would not have been procured. I can assure you again no impropriety was ever sought or intended in this procurement.

The procurement of this furniture is clear evidence of the need for more effective management of the internal administrative matters of the agency. The 1979 delegation by the members to the Executive Director and his redelegation to the Director of Administration has not proved effective.

Moreover, so long as the final authority for internal administration is vested equally in the Chairman and members, it will ultimately rest in a committee, and management by committee of internal administrative matters has proved to be ineffective and inefficient.

Our experience in the past 3 years, especially as regards procurement of furniture, has led me and the other members to conclude that management of internal administration of the agency would be far

more effective and efficient if the ultimate responsibility and authority for such management were assigned to a single individual.

Therefore, as the Chairman of the Authority already said, effective today, the members of the Authority have delegated to the Chairman the responsibility and authority for management of internal administrative matters. This would include all housekeeping services and functions, such as procurement, fiscal management, personnel management, and office services.

Moreover, having been through this ordeal, I would heartily endorse initiatives which would establish uniform standards, clear requirements, and simple procedures for the procurement of all Government furniture, preferably through a single Government agency such as GSA.

Senator DANFORTH. Proceed, Mr. Applewhaite.

Mr. APPLEWHAITE. Mr. Chairman and members of the committee, I am as dismayed as you that any alleged improprieties may have occurred with the agency's acquisition of furniture.

However, I would be remiss in my responsibilities to you if I did not point out that shortly after my confirmation in August of 1979 I held my primary function to be the disposition of cases and case decisions and the establishment of overall policy in the administration of the agency. The actual implementation of the overall detailed policy was left to the essential personnel within the agency. At that time, the backlog of Executive order cases from the Federal Labor Relations Council was well over 1,000. Similarly, cases arising under the newly promulgated Federal Service Labor-Management Relations Statute were accumulating in record numbers. Also, at this time we were faced with numerous issues emanating from the labor-management provisions of the Panama Canal treaties. The caseload had been estimated to increase at something around 15 to 25 percent, whereas in reality it increased by close to 500 to 1,000 percent over what the old Council was doing.

The delegation of authority is a necessary and essential element to the effective management of an agency. Therefore, when I came to the Federal Labor Relations Authority, I did not think it was improper that the contracting authority had been delegated to essential personnel with experience in the area of procurement. Rather, I was assured by the Office of the Executive Director that administrative matters were being handled properly. Consequently, I directed all of my energies to reducing the overwhelming backlog of cases and trying to resolve other case-related issues.

At the time I joined the agency, I was informed that the furniture for the four Presidential appointees had been ordered, received, and warehoused. In addition, a permanent location for the agency's headquarters had only been identified.

In an effort to ascertain exactly what furniture was available, my staff assistant tried repeatedly to see the furniture, either to get pictures or a detailed description of the furniture from various agency personnel. She was advised that no pictures were available and that the furniture was crated in the warehouse and could not be seen.

However, furniture which was to be used by myself and my staff assistant in our offices—that is, the desk, the credenza, and the bookcase—was removed from the warehouse and placed in our offices. This

was the furniture that had been ordered in 1978, when they had estimated that the staff of the members would only be a member and a secretary.

In the summer of 1981, additional furniture was ordered to accommodate the agency's national headquarters staff. These purchases were made in anticipation of the agency's move to its current location in October 1981. At that time, additional furniture was ordered for the members' suites in light of the increased staff. I should add also the bludgeoning caseload which went up from approximately 500 cases a year to something almost to 10,000. There was no contemplation of an executive assistant position for each member, nor was there an accurate conceptualization of what the suite area would be like in 1978.

Therefore, the original purchase of furniture was insufficient. Having directed that all such procurements were to be in compliance with GSA regulations, the members were informed that the allocation of office space and its proposed utilization had been approved by GSA.

While I, too, am concerned over the amount of furniture that the agency has been required to excess, such action was a direct result of severe budgetary cuts. The personnel ceiling was lowered and the budget was cut by 16 percent. This action necessitated reduction in force of approximately 40 persons. Accordingly, our space requirements were also reduced. Unfortunately, furniture for these 40 positions had been ordered, received, and ultimately had to be excessed.

My involvement in the agency's administrative matters had changed dramatically. After I learned of the furniture procurement problem, I immediately appointed a three-member team which investigated the procedures and prepared a written report of recommendations, which I fully adopted, and I recommended. I believe the committee has been furnished a copy of this. Each member has also been furnished a copy of this. This report upon completion was made available to you.

Similarly, I have outlined substantive changes in our method of operation in an effort to conserve resources. Additionally, I would urge that serious consideration be given to the appointment of an Inspector General within the agency to oversee the execution of procurement matters, not on a permanent full-time basis because the agency is too small for that, but someone, say, from the Solicitor's Office who would be familiar with the law and may have knowledge of the procurement procedures. In light of the delegation of authority, effective this date, the appointment of such an Inspector General could also be only during the transition period.

Now, in the earlier testimony, I would like to point out that Mr. Gilroy of GSA indicated that some excess furniture in storage was members' furniture. I would like to correct this statement for the record and say that none of the excess furniture was members' furniture.

On the subject of excess furniture which was in the warehouse, I would like to report to this committee that the furniture has now been removed from the warehouse and transferred through Government procedures to other Federal agencies who had a need for it. That has eliminated the expense for the rental fee payable to the warehouse, and other Government agencies have been able to utilize that furniture.

There have been some other events which I think would be of interest regarding the transfer of this warehouse furniture, and I would like, if

you would bear with me, to have this explained, what happened in the transfer of this furniture, by Dr. Guy Rankin, who is the Director of Administration for our agency.

Dr. RANKIN. Thank you.

I was contacted initially, and the Deputy Administrator made an inquiry as to where our excess furniture was and how much was available. They advised me they were in the process of procuring furniture, and it would certainly be of benefit to them and save the government money at least in one direction if they could take advantage of our excess furniture.

I accompanied them to the warehouse at the Navy Yard Building 159. They viewed the excess furniture, including some of the items in pictures you showed earlier. They took about 60 to 70 percent of the furniture that was in storage at that location.

At the time we decided to transfer to FEMA, we contacted GSA's surplus property utilization branch, Mr. Bill Lehde of that office, who advised myself and FEMA how to proceed through their property management specialists. The necessary forms 122 and 120 were prepared, and GSA reviewed those forms and has the necessary papers in their possession.

The same thing occurred with the National Park Service, Department of Interior. We received a letter after showing the furniture, the patio furniture in particular, to the Department of Interior. That is, they wrote a letter saying they had an urgent need for the furniture, and they would like to have it. We took them out there and showed the furniture to them. They made arrangements through the transportation division to pick up the patio furniture and put it to use.

The D.C. Government also contacted us, that is, their property utilization specialist, again working through the GSA personnel, who was Bill Lehde. We were able to offer to the D.C. Government a direct transfer using the same forms I mentioned earlier. They provided their trucks and what have you to pick up the balance.

I can report at this time the agency is no longer paying warehouse storage space at Building 159 in the Washington Navy Yard.

Senator DANFORTH. Let me just ask you this. What did you do before coming to this job? What was your line of work?

Mr. HAUGHTON. I was vice president of Wayne State University in Detroit, a professor of management. One of my continuing functions was to be head of an industrial relations institute, which came under my aegis. I headed this for some 23 years.

Before that I was an active arbitrator and mediator of labor disputes in the private and public sectors. I served in a number of presidential areas. I was a professor at Wayne State. I was vice president of urban affairs. I was a professor of management.

Senator DANFORTH. Professor of management.

What about you, Mr. Applewhaite?

Mr. APPLEWHAITE. I am from New York State where I practiced law. I also became involved in the field of labor relations as an arbitrator, mediator, and factfinder. I've been an arbitrator for approximately 20 years, practicing in the private and public sectors. I have served on several panels throughout the United States. I have participated in approximately 1,000 to 1,500 arbitrations and mediations in

the private and public sectors. I was also the chief regional mediator for the New York City office of the New York State Public Employment Relations Board for approximately 10 to 11 years.

I also was a college professor. I have taught at the State University of New York and Cornell University. I have full accreditation to teach graduate and undergraduate courses.

Mr. FRAZIER. I am also an attorney. As I indicated in my testimony, prior to becoming a member of the Federal Labor Relations Authority, I was the Executive Director of the Federal Labor Relations Council. I was with the Council from its inception in 1970.

Prior to that I was with the Department of the Army. My last position there was Chief of Civilian Personnel Policy and Civil Rights in the Office of the Assistant Secretary.

Senator DANFORTH. Did any of you have any experience in acquiring office furniture or setting up offices?

Mr. HAUGHTON. I was certainly involved in setting up offices in terms of the top policy positions. I never procured furniture myself. We had an extremely proficient procurement staff at Wayne State University that would come to our meetings, and they did it.

Mr. APPLEWHAITE. I was with two State agencies which had been involved in relocation. The New York State court system was reorganized and restructured during the period I served as legal secretary to a judge. It was my responsibility to oversee the moves, but the actual details for the purchase or buying of the equipment was handled by the procurement staff. When I joined the New York State Public Employment Relations Board, it was a new agency. We established about four or five offices throughout the State. My function was basically the same as it is with the Authority, to process cases and help establish policy. The actual details of procuring the furniture and equipment were done by the procurement staff.

Senator DANFORTH. None of you had the personal responsibility of actually creating the new office and furnishing it or moving into a new headquarters?

Mr. APPLEWHAITE. Only on a policy level.

Mr. HAUGHTON. I was president of a board of mediation for community disputes, a Ford Foundation-funded operation in New York City, from 1970 to 1972. This was when the chairman of the board literally procured everything, but again, we delegated this, I as president and he as the chairman, to a very efficient staff. We said we wanted to get this place furnished. We got it furnished. We had a tight budget. They did it.

Mr. FRAZIER. In my experience, the Department of the Army had been well established by the time I went to work for them. They were well furnished. The Federal Labor Relations Council was established in 1970. By the time I joined the staff, the furniture for that agency had already been ordered through the Civil Service Commission procurement people. In fact, I was not initially the first Executive Director. That gentleman was working with the procurement people at the Civil Service Commission.

Senator DANFORTH. Is it fair to say none of you has ever had any experience such as you had when you moved into this agency of being responsible for acquiring furniture personally?

Mr. HAUGHTON. Yes.
Mr. APPLEWHAITE. Yes.
Mr. FRAZIER. Yes.
Senator DANFORTH. When did you first learn of the existence of the OMB bulletin of January 30, 1981, with respect to a moratorium on the purchasing of furniture?
Mr. HAUGHTON. That must have come to my attention at that time. My first recollection of its actual impact was hearing from the staff that they had accomplished a waiver.
Senator DANFORTH. You were told by the staff that they had received a waiver for that?
Mr. HAUGHTON. Yes. It was a general statement. I cannot put my finger on it. I refreshed my memory as late as yesterday when I talked to my then administrative assistant. She recalls it the same way, as an oral statement.
Senator DANFORTH. An oral statement. Did each of you receive an oral statement that there had been a waiver?
Mr. APPLEWHAITE. I checked back in my files. I found that the actual order came through about February 5 or 6. I happened to have been in New York on the fifth. I might have seen it about the seventh or eighth or later. No comment was made by me at that time.
I received the oral communication that the waiver had been obtained some time later. I would assume it was probably April or May.
Mr. FRAZIER. I also refreshed my recollection by discussing this matter with my staff assistant and my executive assistant, particularly in connection with my testimony earlier today about the note I had sent to the contracting officer.
I personally did not recall the details, and they did, and they helped me reconstruct it.
Senator DANFORTH. With respect to the OMB circular, were you told there was a waiver?
Mr. FRAZIER. I was told by my staff, who had gotten the word orally from the administrative staff of the agency, that there was first a moratorium. The furniture that I had selected for my offices could not be ordered. I was also told that exceptions could be gotten to that moratorium.
Some time later, and I cannot recall precisely when, we were told that the furniture had been ordered. Now, I do not recall ever having been told personally that we had gotten an exception to the moratorium. The word "freeze" appears in one of the notes in our files.
Senator DANFORTH. It was your understanding the freeze was lifted especially for your agency, or generally for the Government?
Mr. FRAZIER. I do not know which. I know that the freeze had been lifted. There was a note in my file that the secretary recorded when she heard from someone.
Senator DANFORTH. When were you told that?
Mr. FRAZIER. About the time—well, I guess it was when the furniture order was placed.
Senator DANFORTH. In April?
Mr. FRAZIER. I think it was later than that. I just do not know when.
Senator DANFORTH. Who told you that?
Mr. FRAZIER. My secretary.

Senator DANFORTH. Who told you?

Mr. APPLEWHAITE. It probably came out of the Executive Director's office, either the Executive Director or the Deputy.

Mr. HAUGHTON. In my case, I cannot recall. I really personally did not care whether I had any furniture or not. I relied upon the staff as to what they did. There was no question in my mind that I recall they were doing it. They told us they were doing it properly.

I cannot put my finger on who said that a waiver had been accomplished, but it is implicit that there were continuous meetings. I never did get involved in the details of a particular piece of furniture.

Senator DANFORTH. In any event, was it your understanding there had been some sort of a freeze, but it had been waived either specifically in your case or generally?

Mr. HAUGHTON. Specifically in the case of the agency. I did refresh my memory in a 2-hour interview with my executive assistant yesterday. She recalls this.

Senator DANFORTH. Each of you believes that there was a waiver for the purchase of this furniture, and it did not violate any OMB rule.

Did you have any reason to believe that there was any problem with respect to being authorized to buy it; that is, with respect to any transfer or obligation of funds at GSA?

Mr. HAUGHTON. We were never told of any problem. There were reports made that such and such was being done. There was an $860,000 figure used as startup money. I remember saying to myself that I think that is a lot of money, and that we should be able to use some of it for something else.

My first information that there was any problem, and I am very grateful for it, was when I had a discussion with Roger Carroll of GAO in one of the three meetings with me perhaps a week ago. He said there is a possibility of a problem and that he had not seen a contract. He added that he was checking it out with his lawyers. At that point, I realized there was very possibly a real problem.

Senator DANFORTH. When did you know or when were you first made aware—and again, each of you individually—when were you first made aware of the cost of what you were buying?

Mr. HAUGHTON. My knowledge was literally the day that the table arrived. My assistant and I looked at what must have been a manifest, and we just got so upset. I recall $4,300 for the table, but apparently it was $3,700. We said take it back.

Senator DANFORTH. When was that?

Mr. HAUGHTON. Literally the day of arrival. I am told it was early November, about a week after we moved in, November of 1981.

Senator DANFORTH. Subsequent to the initial contract and subsequent to all of the change orders: You had no idea of any of the cost until perhaps November of 1981?

Mr. HAUGHTON. That is correct. I checked as late as yesterday with my former assistant and my secretary, both of whom were involved then. They made it clear that they were never informed of any cost. They never signed anything. My office made selections from catalogs made available to them. The people tell me that they understood that these were all approved by GSA. They were told to go ahead and select. This is what they tell me. I personally never saw the pictures.

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Senator DANFORTH. When did you first know of the cost of these items?

Mr. APPLEWHAITE. The actual time I found out about the cost was after the furniture had been delivered. I was told that it came to approximately $38,000. Prior to that time I had no idea what the cost was.

I do know that I had assumed, because of my instructions, that everything was to be within GSA's regulations. Because of the size of the office and having worked for the Government before, I knew that certain grades were entitled to certain size offices and certain furniture. Based on that assumption, I told my staff to get what was authorized for the positions.

My staff assistant, Betty Mayo, made the selections and she would know what prices were given. She is right here. She could tell you.

Ms. MAYO. Mr. Applewhaite did not know what the furniture cost until the Federal Times so informed him.

Senator DANFORTH. When was that? Was it February of this year?

Ms. MAYO. I think it was February of 1982. At the time of selection, I was not made aware of prices.

Mr. FRAZIER. Again, I attempted to refresh my recollection with my executive assistant and my staff assistant in preparation for this hearing, and to the best of my recollection, the first time that we were aware of any individual prices charged by the successful bidder on this furniture or on the total cost of the furniture was when we were provided that information some time after the furniture had been ordered and when the furniture began to come in.

Senator DANFORTH. As to the note that you wrote with the list attached, your testimony is that you did not look at the prices?

Mr. FRAZIER. When I wrote that note, and I refreshed my recollection on this because I asked my staff assistant—but to go back, some time back, after February, after this appeared in the Federal Times, a member of the staff brought a copy of that in—and I was standing at my secretary's desk—and said, "What is this? Do you recall this?"

I said no. I turned to her, and she said, "Yes, I remember this." She reminded me of what happened. I sat down with my staff assistant. I sat down with her and my executive assistant to reconstruct what had happened with respect to that note and the document that had been attached. To the best of our collective recollections, I dictated that note very quickly as a reminder, as a prod: Don't forget to order this furniture; please do so immediately.

She said that she had this list that she could attach of all of the furniture that the decorator had prepared for my office. I do not think this was a complete list. I think this was the first list.

Then I initialed the note. I asked her to make sure that the list was complete based on our selections to date. She attached my note and she sent it back to the contracting officer. I did not look at the list. I simply initialed the note and let it go.

Senator DANFORTH. Let me ask you: Did you know prior to early 1981, any of you, what a Barcelona chair was? Had you heard of a Barcelona chair?

Mr. HAUGHTON. I'd never heard of one.

Mr. APPLEWHAITE. No, I had never heard of it before.

Mr. FRAZIER. No.

Senator DANFORTH. Had you heard of Kittinger furniture?

Mr. HAUGHTON. I was not interested in that stuff and I do not know any of the brand names.

Mr. FRAZIER. I was familiar with Kittinger because some of the pieces ordered in 1978 came from Kittinger.

Senator DANFORTH. Were you aware that you were ordering the grass cloth wallpaper?

Mr. FRAZIER. No, I was not.

Mr. HAUGHTON. I didn't even know I was ordering wallpaper. I am so ignorant of procedures if they had put paint on it I would have been just as happy.

Mr. APPLEWHAITE. Ms. Mayo could answer this. She selected the wallpaper.

Ms. MAYO. The original wallpaper that the former executive assistant and I had selected was out of stock. The decorator came to me and said, "We can no longer get that wallpaper." She had five samples from which I was asked to select a substitute. I said, "Are we in the right price range?" We looked at two or three of them. I said, "I don't want to spend any more than we had previously spent. My boss is tough." She said, "No problem. In fact, yours is less than some of the other Presidential appointees' offices." And that is the way it was left with me.

Mr. FRAZIER. I am not familiar with the term that you use, with grass cloth. Therefore, I do not know whether wallpaper is or is not grass cloth. The wallpaper that was ordered for my office, I believe, is like wallpaper for Mr. Applewhaite's office, and it was either the first or second substitution for something else ordered which turned out to be not available.

Senator CHILES. Now, Mr. Frazier, you were talking about the furniture, that you had been there earlier and you had been there when the furniture was ordered in 1978. I think you said at that time that GSA did the figuring for the room and the figuring for the furniture and all of that was done by GSA.

Mr. FRAZIER. Let me spell it out in detail again. The Federal Labor Relations Council with which I was associated received all of their internal housekeeping and administrative support from the Civil Service Commission. If the Council ever needed to buy a chair or a typewriter, we sent our request to the Civil Service Commission, and they processed the request.

Because the Council was going to move into FLRA and we had no internal procurement capability, I was told to continue to work with the Civil Service Commission procurement people. That is when the procurement was made.

They, in turn, arranged for us to work with these interior design people that were on the staff at GSA.

Senator CHILES. What I am trying to determine is this. Suddenly you go from that to where your new floor plans were prepared, with an office layout and entire design layout by an expert, to the services I think you say had been procured by FLRA. So how did the design people get into this? Why wouldn't GSA do this as they had in the past as a standard?

Mr. FRAZIER. The GSA people that were used the first time when I dealt with the Civil Service Commission did not do any office blueprints or office layout design because we did not have at that time a national headquarters location.

Senator CHILES. You know that GSA provided that kind of services?

Mr. FRAZIER. Yes, sir. I knew that they provided those services. When I became a member of FLRA, I was not involved in and had no direct knowledge as to how the Kress Associates firm was selected rather than using GSA. I had been told at one point in these activities of laying out blueprints for the national headquarters here that GSA said they did not have the capability available to assist us at one point and asked us to prepare them some other way.

I think that Mr. Shepard can give more information on that when he comes in.

Senator DANFORTH. Go ahead, Mr. Shepard.

Mr. SHEPARD. The space at 500 C Street SW., where we are currently situated, was offered to the agency on April 22, 1981. That followed a congressional prospectus that had been approved in November of 1980, which in turn followed over 2 years of attempting to get space for a national office here in Washington.

This agency had been operating from four different locations spread across this town, pulling its cases together and trying to make decisions. The offer at the time was for the first two floors—the top two, that is—if we could get our floor plans ready before the other competing agency for this space could do so.

Well, that really gave us an appetite to perform because we had been trying to get space for so long, and we had gone through two complete sets of plans for other buildings that had been identified and subsequently taken away from us.

When we went to the GSA staff and asked what we had to do, we were told to get our floor plans ready. Our procurement officer at the time, our contracting officer who was with me, said to the GSA staff, "We can only do it if we use a private architect." I heard no opposition to this. I was at the meeting, and a private architect was obtained to develop the floor plans, and we lost the horse race. They came in at the same time that we did with the floor plans. So we were relegated to the lower three floors. That is all I know about it as to the beginning of this.

An architect had been used, I believe, before I came to the agency, and in doing some work for the facilities that had been offered previously.

Senator CHILES. This was the same architect that later did the design?

Mr. SHEPARD. That is my understanding. I did not get involved in the design function. I was getting this into the right place and the right shape with continuous internal meetings. This was with the staff and with the GSA representatives.

Senator CHILES. Can you tell me if any of your board members—or were any of you advised or did you sign off on the procuring of the services of Kress Associates as the designer?

Mr. HAUGHTON. I did not.

Mr. FRAZIER. No.

Mr. APPLEWHAITE. No.

Mr. SHEPARD. That selection was made under the delegated authority and made, I am certain, in the contracting office. At least I recall this.

Senator CHILES. You have seen as we have today the items and some of the prices on them. They do sort of shock you when you see $800 and some for a stand that holds a little flower. I know that that makes for a lot of sensationalism, but that seems high to you, too, does it not?

Mr. FRAZIER. Absolutely. It is exorbitant.

Senator CHILES. But you did not know what the prices were on any of those items prior to the time that the story was run in the Times?

Mr. HAUGHTON. I was aware of the prices on the table and the most expensive items the day that they arrived. I said, "Send them back." I am embarrassed about it. I cannot help but say from a distance—and I do not know about procurement in answer to your earlier question—but I strongly suspect that the Federal Government pays more, frequently, than I do when I go to Hechinger's or Sears & Roebuck. That is my impression.

Senator CHILES. Normally speaking, my wife, you might say, would be the buyer in my family. She has been delegated that authority. She does that. She has sort of absolute authority. Even under that circumstance there would be some time—and I am thinking about grass cloth at so much a yard as opposed to something else at so much a yard. Now, at some stage, even in this procedure, and I have to say that is pretty much an absolute delegation and I do not have much to say about that, but at some stage something always comes up as to whether we should go this far, to the top of the line, or whether we should take this and whether we should take this other material. It will cost so much a yard, or are we going to use another material.

I understand there were some chairs that were bought and the material was changed.

Mr. HAUGHTON. That is right.

Senator CHILES. You all were not consulted on any of those decisions?

Mr. HAUGHTON. I made an earlier statement to the staff that I did not want any part of furniture selection. It had to go through the system. I am used to a system. I recalled to mind that I had a small business and I was president of it. Even there I did not buy the furniture. I am used to a budget. I assume that people have a budget.

I completely accept the responsibility for this mess in my office. I am embarrassed about it. I tried to portray that in my letter to Senator Danforth. If I could find words to express it more clearly, I would do so.

Senator CHILES. Even recognizing, let us say, that you all knew what the startup costs were and you were very much involved in all that you had to do in all of the cases—with that startup cost, in retrospect, doesn't it seem very high?

Mr. HAUGHTON. Yes.

Senator CHILES. At no stage were you looking at or you did not have some decision made before you to say, "Look, we have got $860,000 to get this thing started. We have got an important role. We have all of these cases. We have got all of these things to do." It was not even starting off at $88,000 for furniture, and it has now suddenly gone up to $300 and some thousand. It was eating away all of your money, was it not?

Mr. APPLEWHAITE. The agency startup funds of $860,000 had been received prior to my joining the agency on August 16, 1979. I realized that when the time arrived to make the selections inflation would have an effect on the original figure.

I was concerned that the prices were going to keep rising, but at the same time there were changes between 1979 and 1981 in the increased staffing that would change what had been projected in 1978 and 1979 so that the overall cost would be different.

I would also like to point out one other thing. The manufacturer's name for the wallpaper in my office suite is entitled "Leaves of Grass." It is a commonly used, good quality wallpaper.

Senator CHILES. We had a figure of how much per square foot or by roll.

Mr. APPLEWHAITE. Seventy dollars per roll, including installation for 1,600 square feet.

Senator CHILES. I have a paperhanger, and maybe it has gone up, but I know it is less than $10 a roll; I think it was $5 a roll.

Senator DANFORTH. I think we have to make a decision as to whether we will come back or not.

I think that what we will not do at this point is call Mr. Carmen. Mr. Shepard, have you a word to say, other than what you have said?

Mr. SHEPARD. I have a couple of things I would like to say in view of the nature of the discussion that I have heard this morning, if I may.

Senator DANFORTH. Just so that we can plan the timing, because a vote is in process on the floor of the Senate, how long would it take you to make your comments?

Mr. SHEPARD. Not more than 10 minutes.

Senator DANFORTH. Why don't we come back then?

Senator CHILES. I will have a difficult time coming back.

Senator DANFORTH. In any event, I will be back in 10 or 15 minutes. If everyone can stay close by, this would facilitate matters. Thank you. Then we can wind up pretty quickly.

[Recess.]

Senator DANFORTH. We are back in order.

Now, Mr. Shepard, would you like to proceed and continue or make any comments that you care to?

Mr. SHEPARD. I would very much like to do so. I would like to speak to you as an individual, as well as a person who has some contact with the members, the appointees, and the staff. Mine is sort of a linkage here.

My points are made with respect to what has happened. This institution has gone through an unusual period for any institution. It is an infant that was created in 1978. It has had a terrible time getting started, but I am convinced, as an economist and as a management-type, that the basic decisions which were made here in getting this organization together in this building were in the fundamental interests of the taxpayers of the United States.

Now, some mistakes have been made, and we will have to work those out. So I am not hiding behind excuses. There are points that I feel very strongly about, and the first point is that we have had an awful turnover in people. I am the fourth executive director of this organiza-

tion, and it only started in January 1979. I became executive director in November 1980. But that is only symptomatic of the kind of stresses that the organization is going through.

There have been similar problems through the key staff. We have had three directors of administration, three finance officers, three chief counsels. We have had three solicitors and two contracting officers.

Then we had a 25-percent reduction in force. So there has been very little continuity in the key jobs over a period of time, with all of the side effects that that creates in an organization.

The problem here has not been the fault of an individual, but of a system and of components in that system. It certainly is not due to the career civil servants, in my judgment. They have tried to do the job as they perceived it. That goes from the finance area throughout the administrative area.

People have worked. They have worked hard. There has been turnover. There has been turbulence. There have been continuity problems. People have had to act with the information that they had. People were convinced, I believe, that they were doing what was permitted in all of these actions that have taken place.

There is no one that I have talked to who has ever admitted to me of violating a single Federal regulation or a single Federal prohibition. That includes the President's freeze on buying additional furniture.

We did it illegally, I think. We did it without authorization, I think, but I do not think that the individual who signed the papers or moved the papers knew it at the time. I am convinced that the authority was thought to be there.

These people on the staff have had this turbulence for a number of reasons. One is that they were thrown together in a startup agency, not experienced or prepared to handle the very unique problems of startup. There is a big difference between routinely buying pencils and establishing a national headquarters and all that goes into that. Yet the personnel system in the Federal sector does not really take that into consideration.

There was miscommunication here. It is a byproduct of the organization's infancy. It may be that all of the furniture and all of the startup functions for a new agency created by the Congress should be handled by a single agency with people skilled and qualified in doing those things.

In view of what we have gone through here, I think that is probably a good factor to consider, and your proposed legislation is certainly in line with this.

There have been other system failures here, too. We were permitted to sit for 2½ years in four different locations in this city—and try to handle a caseload that surged to 800 at the national office level when the top performance that the staff was able to produce was 400. There was enormous pressure.

We had two false startups for buildings at M Street, with all of the planning that went into that—including floor plans and, I think, even including furniture selection.

There have been reports about the slum conditions in which this agency was operating. This is one of them. It came out just recently. It shows pictures of how badly the professional staff was stacked into the four different locations where it was located.

I feel, as someone with some background in organization, I am honorbound to bring up one other thing. The Congress of the United States created this agency. It put into it nine Presidential appointees—three Authority members, the General Counsel, the five Federal Service Impasse Panel members—but it did not designate an executive head. Despite all of the delegation that we have done, a pyramid structure is just very difficult with that kind of situation.

Now, with respect to startup money, Congress acted on July 25, 1979, and it was $860,000 that was provided. That was before my time here. There was no GSA building available. There was no way to preserve the funds known to the professional staff other than the actions that were taken.

They were convinced that those actions were appropriate.

Now, where have I been since November 1980? I've been awfully busy. For one thing, we had to get a building. We worked this out with the prospectus and the House of Representatives and through GSA. On April 22, this building was identified.

We had to handle the existing caseload. We have so restructured our case management system that with the move into this building we are getting about twice the production out of our professional staff that we had achieved in those four fragmented locations. To me, that is why we are here; it is to handle the mission, which would be the cases. That is why I say economically the move here was the right one for the people.

I have been involved, also, very deeply in setting out the infrastructure. We had no internal system of regulations when I came here. We do not have one for procurement now, but we have this number [folder] that I am showing you. Those in the folder cover most of the functions of the agency.

With respect to furniture, I did not get involved as I should have been, because I did not see any red flags. The system seemed to be working well. I was immersed in space problems in the building—the distribution of the space and the layout of the space—and the internal problems with GSA.

As far as furniture, I would have gotten involved only if I had seen problems. I did not. So I am negligent in that regard.

I want to say to you that a lot of awfully good people made the consolidation of this agency possible, and its case-handling track record proves it was the right move. It is just extremely unfortunate that we had this furniture mess.

Sir, I am prepared to answer questions.

Senator DANFORTH. I would like to focus on furniture questions. Did you have any role to play in the purchase of the furniture?

Mr. SHEPARD. I selected the carpeting in this room. I selected the draperies in this room. I worked on the items for the professional staff. This is the stuff that is authorized under the GSA system.

Senator DANFORTH. I mean, with respect to the office furniture of the members. Did you have any role to play?

Mr. SHEPARD. No. This is what I understand the system was. Selections had been made for M Street. At least I am under the impression that they had been. When the M Street building was canceled in November 1980 just as I came in, and when we got to the end of April

1981 and this building was designated, then we got this interior decorator who was doing the floor plans for this building involved; that is, the Kress people.

She worked directly with the staff of the members and the contracting people. There may have been other isolated things that I got involved in.

Senator DANFORTH. You had nothing to do with entering into that contract?

Mr. SHEPARD. I approved on January 7 the implementation of the furniture procurement. That was before the President's moratorium. We had an approved furniture plan which had come through under the previous Carter moratorium. That plan did not address the Presidential suites, but rather the rest of the staff's. I did not know that it did not.

Senator DANFORTH. Did you know the price of the furniture?

Mr. SHEPARD. I did not. It was under a competitive bid procedure, if I understand it correctly. The items that are identified are not priced when they are advertised. It is only after the bids come back and you compare those that come in from the different agencies that you get that. I was not involved in that phase of it.

Senator DANFORTH. Did you talk to the members about the furniture during this period?

Mr. SHEPARD. Around January 7, the release of the $860,000, I would have cleared this with the members. We had gotten the approved furniture plan. Procurement had come in and said we needed to proceed.

Senator DANFORTH. Did you know that the agency was in the process of procuring quite expensive furniture?

Mr. SHEPARD. I did not.

Senator DANFORTH. You did not think there was anything unusual about the furniture procurement procedure?

Mr. SHEPARD. If you read my memo to the procurement office, I said to use competitive procurement processes. I believe that is the phrasing I used.

Senator DANFORTH. Did you believe there were funds available to this agency to purchase furniture?

Mr. SHEPARD. I believed the funds were available until the first real doubts occurred, which was this week after a conversation with Mr. Carroll last Saturday.

Senator DANFORTH. Did you have any conversations with the members about the type of furniture that they were ordering or the cost of the furniture they were ordering?

Mr. SHEPARD. I did not.

Senator DANFORTH. Did you know in January, at the time of the President's order, of the moratorium? Did you know that that moratorium had been issued?

Mr. SHEPARD. I've gone back and tried to reconstruct. I do not remember seeing the moratorium as such. We have had a turbulent period on furniture since your hearings over at Agriculture in 1978.

Senator DANFORTH. Were you aware of those hearings?

Mr. SHEPARD. I was generally aware of them, yes, sir, but there have been moratoriums. There have been other restrictions on buying

things, and I knew that we had a furniture plan approved. I asked the procurement people if we were clear to proceed with the procurement. I was told yes.

Senator DANFORTH. Whom did you ask?

Mr. SHEPARD. I believe it was Richard Wolfe. There is a note in the procurement file signed by the current procurement officer with a certain date that indicates we had a waiver to proceed.

Senator CHILES. I have no questions.

Senator DANFORTH. Go ahead, Mr. Shepard.

Mr. SHEPARD. Could I add one other thing, please?

I understand that the cost of the wallpaper in Mr. Applewhaite's office is between or was between $40 and $50 a roll, rather than $70. I have lost the right card, if you will give me just a second. It was $25 to $40.

[Subsequent to the hearing the following information was received from Mr. Shepard:]

A subsequent check of the administrative files maintained by my office permits me to clarify two matters which were raised during the hearing.

I distributed the furniture moratorium to the Offices of the Members after it was received in January 1981. At that time, no building was identified for the agency and the material was routinely processed. The consolidated requisition for wallpaper, carpeting, and draperies was brought to me for signature because input was from several sources and time pressures were intense. It appears from our files that at least some price information was on that requisition when signed.

Senator DANFORTH. Thank you very much.

Mr. Wolfe would like to be heard, I understand.

TESTIMONY OF RICHARD WOLFE, FORMER OFFICE SERVICES MANAGER, FEDERAL LABOR RELATIONS AUTHORITY

Mr. WOLFE. Mr. Chairman, my name is Richard Wolfe, a former employee of the Federal Labor Relations Authority.

I occupied the position of the office services manager from the inception basically of this agency. As Mr. Frazier and Mr. Shepard have said, we were responsible as a part of the administrative section to set up offices throughout the United States. We, the office services division, ultimately had 13 of them, I think, and were tasked to provide them with furniture and services; that is, telephones and so on.

There are a couple of areas that I think need to be clarified. The purpose for the $860,000, I understand from sitting here, was for the startup funds for the headquarters. That, sir, I do not think is correct. The $860,000 was for the startup of the entire agency, not just for the headquarters.

Now, Mr. Shepard was just asked a question as to if he was aware of the price of the furniture. I cannot swear that he knew of the price of the original contract. I can, however, swear that he was aware, as were two other people aware, of the second modification of that contract.

Senator DANFORTH. Who were the other people?

Mr. WOLFE. Deputy Director Kessler and Mr. Frazier's assistant, Holly Hemphill.

I mentioned this specifically to Mr. Shepard, and I was told to get what the members wanted. I made a statement that it was rather ex-

pensive, and indeed, I pointed out the Barcelona chairs, and I was told if that is what the members want, that is what the members are going to get.

Senator DANFORTH. This was when?

Mr. WOLFE. Before the second modification of the contract was signed.

Senator DANFORTH. There were two major modifications. Are you talking about before the first of the two major modifications.

Mr. WOLFE. Yes.

Senator DANFORTH. The first of the two major modifications was July 1981 and the second one was September 1981. So it was before the major modification for $50,000 and additional furniture—including the patio furniture—that you had a conversation with Mr. Shepard?

Mr. WOLFE. With Mr. Kessler and additionally with Ms. Hemphill.

Senator DANFORTH. You told these three people that this was getting awfully expensive?

Mr. WOLFE. Yes, sir.

Senator DANFORTH. And you were told by Mr. Shepard to give the members what they wanted.

Mr. WOLFE. Yes, sir.

And, sir, at no time did I discuss these purchases with the members. Indeed, for the most part the administrative staff was shielded from the members.

To cite an example of this shielding, during the design phase of this office, at least three times I was asked to come down from my office, which was on K Street at the time, to E Street to the Civil Service Commission Building to discuss the latest designs. I would do so, and I was sequestered in Mr. Shepard's office while he discussed the plans with the members. He would then come back and say, "Thank you very much, indeed, Richard."—and send me home without speaking to the members at all.

Now, there was a question earlier in the testimony as to how Kress-Cox Associates was obtained. A designer was required by the management, specifically Mr. Chaitovitz, the former executive director, who directed me to go out and to find an architect. I think that was the term he used. In that we had a very short time to do so, I directed a member of my procurement staff to conduct an oral solicitation by calling some local architectural firms in the area to obtain his assistance.

Now, Kress Associates, which was the original name of Kress-Cox Associates, was finally selected as a result of that solicitation. That was for the M Street facility. When M Street went down the drain and C Street became our object of focus, I specifically told Mr. Kessler that a designer would not be required for C Street. They really hadn't done a heck of a lot for us the first time. We were quite capable of doing it in-house. I was told to go ahead and get the designer back, that we needed their help.

Senator DANFORTH. Kessler worked for Mr. Shepard?

Mr. WOLFE. Yes, sir.

Senator DANFORTH. Please continue.

Mr. WOLFE. I was specifically directed at the time to obtain and furnish these offices such that they would be prepared and ready to be moved into. One specific statement, and I cannot remember who made

it, was, "Richard, your job depends upon this. We're going to hold you specifically and personally responsible." I did what I thought to be proper.

Gentlemen, that is the end of my remarks.

Senator DANFORTH. Did you know of the moratorium on the purchase of the furniture?

Mr. WOLFE. I knew of several moratoriums, sir. We had a freeze that was put on by GSA, and we had a moratorium put on by President Carter or the Carter administration for which there was a furniture plan that was prepared in order to obtain a waiver. I was not aware of the OMB requirement, that I understand came telegraphically.

Senator DANFORTH. Did you believe at the time the furniture was acquired that a moratorium was in place?

Mr. WOLFE. No, sir. I would not have signed the contract had it been so.

Senator DANFORTH. What did you think the status of the furniture purchase was at the time?

Mr. WOLFE. It was my understanding that we had a waiver to obtain the furniture.

Senator DANFORTH. Had you ever seen a waiver?

Mr. WOLFE. I cannot swear, sir, that I did.

Senator DANFORTH. Do you remember who told you, if anyone, that there had been a waiver?

Mr. WOLFE. We had at least two that I am aware of, two freezes or moratoriums. The last one that I assumed that we were operating under, a waiver was granted. A waiver was granted by our submission to and acceptance by the GSA and the OMB of our furniture plan. That was the waiver that, indeed, I did see in writing. It was from Mr. Mullinix, formerly of OMB.

Senator DANFORTH. You submitted a furniture plan at the time to OMB?

Mr. WOLFE. To GSA and OMB.

Senator DANFORTH. When was that submitted?

Mr. WOLFE. I cannot give you the date.

Senator DANFORTH. Was that prior to the initial $88,000 contract?

Mr. WOLFE. Yes, it was.

Senator DANFORTH. Was a further waiver sought or obtained prior to any of the change orders?

Mr. WOLFE. No, sir.

Senator DANFORTH. This is a letter to Mr. Haughton from Mr. Mullinix, Deputy Associate Director for Justice, Treasury, and General Management of OMB, dated November 17, 1980.

DEAR MR. CHAIRMAN: The Office of Management and Budget has approved your furniture expense plan for fiscal year 1981, submitted in accordance with Bulletin No. 80-6, for purchases totaling $336,961. You may now contact the Commissioner of the Federal Supply Service, General Services Administration, to arrange for resumption of the furniture procurement.

A significant portion of your agency's furniture expenditures, we would note, may be related to increased staffing. We are still reviewing employment assumptions for 1981. Should employment levels subsequently be set lower than initially anticipated, we would expect that downward revisions to furniture allowances may be required.

We appreciate your cooperation in preparing the furniture expense plan and your continuing personal involvement to assure improvement in the procurement, use, and disposal of furniture.

Now, does this mean that OMB did approve the acquisition of the $336,000 for furniture?

Mr. WOLFE. It was $336,000 worth of furniture. It did not, however, include, sir, the furniture which I expected to be somewhere between $10,000 and $20,000 for additional furniture for the members. I called a gentleman in GSA, and I inquired about the additional amount, and his response was:

If you're not going to spend more than $336,000, then go ahead and obtain it as long as you are not going to buy 8 million chairs when you would say you were going to have 300.

Senator DANFORTH. This, of course, was during the Carter administration? This was 1980?

Mr. WOLFE. That is correct. That is the last waiver and moratorium I was aware of.

Senator CHILES. You may have contacted the Commissioner for procurement. You did not procure this through the Federal Supply Service?

Mr. WOLFE. That is correct.

Senator CHILES. Go ahead.

Mr. WOLFE. They were, indeed, contacted, sir, but at that time the Federal Supply Service did not have any schedules whatsoever. Everything had been canceled. There were no schedules under which one could buy.

Senator CHILES. There were no schedules, but the Federal Supply Service had furniture. They had warehouses full of furniture.

Mr. WOLFE. I made an effort, sir, to obtain some of that furniture. I was never allowed or able to get any.

Senator CHILES. How did we get from here where there is a contact with the Federal Supply Service to going out and just soliciting or going out on the open market?

Mr. WOLFE. There is a regulation, sir, if it is not available in the Federal Supply schedule, then one can solicit in the open market under the Federal Procurement Regulations.

Senator CHILES. What happened, as I recall, in this period of time is where you had had the multiple awards system you, therefore, had a catalog from which you could pick out what you wanted. GSA was in the process of holding back on its use, saying they were going to use the existing inventories. We found there was so much in existing inventories we sort of tried to make a freeze on them going out to multiple awards. We had also tried to cut $220 million out of the budgets from most agencies so they could not procure furniture.

You are saying, while that was going on, that gave you the right to buy on the general market?

Mr. WOLFE. When the furniture that the members were requesting was not available under the Federal Supply schedule or through them.

Senator CHILES. Did you submit something to the Federal Supply Service and say, "Here is the furniture that we want"?

Mr. WOLFE. No, sir. We received a listing of all furniture available to the executive agencies from the General Services Administration saying what was in the warehouse and what was available. None of it was equal to what the members had requested.

Senator DANFORTH. They didn't have any muffin stands?

Mr. WOLFE. That is correct.

Senator CHILES. Or the burled walnut coffee tables?

Mr. WOLFE. No.

Senator CHILES. How did we go from having the Kress people doing the architectural design to doing the furniture or interior designs?

Mr. WOLFE. I do not know, sir. I was responsible, and I requested them to do an architectural design of the office spaces. While they, Kress-Cox employees, were interviewing the members and the members' secretaries and the members' executive assistants, they apparently were asked to assist in selection and the placement of furniture.

Senator CHILES. That was not something you did?

Mr. WOLFE. No, sir. I did not.

Senator CHILES. You do not know who approved that?

Mr. WOLFE. No, sir.

Senator CHILES. That is all I have.

Senator DANFORTH. I have some more questions. With respect to the preservation of the startup funds and the transmission of those funds to GSA, did you do that?

Mr. WOLFE. Yes, sir. I signed the RWA.

Senator DANFORTH. Was that a matter that was known by the members of the Authority?

Mr. WOLFE. I assume so, sir. The management or the Executive Director was well aware of that.

Senator DANFORTH. And to your knowledge, was that actually effectuated?

Mr. WOLFE. Yes, sir. I hand-carried it to GSA.

Senator DANFORTH. And, therefore, it was your view that GSA was the custodian of those funds and that they were no longer within the authority of this agency?

Mr. WOLFE. It was until I spoke to the people at GSA and said, "All right, I am about to bring you a list of furniture that I'd like you to procure. I don't have the money; you do."

Their response was, and I was speaking to the Public Building Services staff, "We don't have your money. You have your money."

I said, "How is that?" "We have not put that transaction into our system," was their response.

Senator DANFORTH. When did this conversation take place?

Mr. WOLFE. When it was nearing the time to buy the furniture. It was a month before the solicitation.

Senator DANFORTH. Your recollection is that a decision was made at the end of 1979, is that right? That was, to avoid a lapse by transferring the funds to GSA?

Mr. WOLFE. Yes, sir.

Senator DANFORTH. You personally handled that transfer?

Mr. WOLFE. I prepared the Reimbursable Work Authorization by direction from the then Director of Administration, Mr. Ronald Sendak.

Senator DANFORTH. However, at a subsequent time, when you conversed with GSA, they said, "We don't have the money. You must still have it."

Mr. WOLFE. Yes, that is correct. I was told specifically, "It is not in our system. We did not put it into our computer. You still have the money."

Senator DANFORTH. As I understand it, no one who has been before us today had any knowledge about the cost of the furniture.

Mr. WOLFE. No, sir, that is not correct.

Senator DANFORTH. Who did?

Mr. WOLFE. As I mentioned in my opening statement, the three people, Mr. Shepard, Mr. Kessler, and Ms. Hemphill, at least knew the cost of the second modification. They automatically knew the price of the first one because they had copies. Each of the executive assistants requested and were given copies of the original contract.

Senator DANFORTH. When was that? Was that in April?

Mr. WOLFE. I cannot remember, sir.

Senator DANFORTH. So these three people had copies of the contract?

Mr. WOLFE. All three executive assistants had copies of the original contract.

Senator DANFORTH. And probably in June?

Mr. WOLFE. It could very well be in June.

Senator DANFORTH. Did they have any knowledge that this was expensive stuff that was being bought? Was there any discussion of that? You said Barcelona chairs.

Mr. WOLFE. I made a statement that it was opulent and expensive furniture.

Senator DANFORTH. What was their response?

Mr. WOLFE. I cannot remember if there were responses from anyone but Mr. Shepard.

Senator DANFORTH. Who said, the members should get whatever they want?

Mr. WOLFE. If the members want it, you get it for them.

Senator DANFORTH. You have been RIF'ed.

Mr. WOLFE. Yes. That happened January 8. That was my last day with this agency.

Senator DANFORTH. Thank you very much.

Mr. WOLFE. Thank you for your time.

Senator DANFORTH. Let me ask you three gentlemen one final question. Is there, to your knowledge, any way in which this stuff could be returned? I think you made that inquiry as to one rug.

Mr. HAUGHTON. I made the inquiry as to the rug and to the tables and the patio furniture, these specifically, and I did it several times.

Senator DANFORTH. What was the answer?

Mr. HAUGHTON. The answer from Mr. Shepard was that it could not be done. He checked it out. He told me that he had Dr. Rankin check it out.

Mr. APPLEWHAITE. We made an attempt to return one rug. We were told there would have to be a penalty charge for half of the cost.

Senator DANFORTH. Let me just conclude the hearing by saying we may at some point have to hear from Mr. Carmen. He was here earlier. It appears that since we have been going on a long time Senator Chiles had to leave and I have to leave, but we will put Mr. Carmen's statement in the record.[1]

I have to say that I am always uncertain and somewhat hesitant as to how public we should go with this kind of an affair. I think obviously the taxpayer is and should be interested in how his money is being spent.

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[1] See p. 49.

On the other hand, I do have concerns that, one, I do not want to personally embarrass or humiliate anyone, including you three gentlemen. I am sensitive to that.

Further, I think that people who serve in public office are often maligned. Generally speaking, they are very good people who want to do good jobs.

I have heard your testimony and your statements that you have never been in this kind of a position before. You have never tried to start up an agency. You had never been in a position of buying office furniture. People more or less presented you with samples, and you picked among the samples, and you really did not know what the cost was. It wasn't until after it had arrived that you found out what the cost was.

By that time it was too late. I accept that. Obviously, something very large slipped through a crack. Here we had a freeze that was imposed by the President. We have had really major national publicity on the question of the Government acquisition of furniture.

Senator Chiles and I have been involved in this for years. We had a rescission in an appropriations bill some years ago. We heard Mr. Wolfe testify that he was aware of several different furniture freezes. Yet, despite this and despite the whole question of where the money was and the apparent lack of legal authority to go ahead and procure that furniture, we are stuck with it, I guess.

It just seems unreal to me, given the President's order, that this could have happened. Also, the fact that the furniture has just been piled up in the warehouse: It is perfectly available; it is useful. In the face of that, more stuff was ordered: muffin stands and Barcelona chairs and grass cloth wallpaper.

I think it is common knowledge that these matters are quite expensive and extravagant. I think that what happened is (a) you were not experienced in it. You did not know how to set up an office. I understand that. I am sympathetic with you.

But (b) you really were less than sensitive to the economic plight of the country and to the whole approach of the administration and the Congress and the will of the people to try to have a lean Federal Government, not an opulent Federal Government.

I know that you are busy and that you have a lot of things to think about and a lot of work to do. It is easy just to sign off on something without giving it any particular thought. That, I am sure, is exactly what happened in this case.

I do hope to correct this by legislation. I do hope to provide very simply that one agency, and one agency only, is in charge of buying furniture, and if anybody else wants to buy something, fine, but he has got to pay for it himself. I think that is the way it has got to be in the future.

I know that you feel bad about it. You certainly have expressed this. I do not think that you should have to go through life continuing to apologize over and over again for something. You have other things to do. I am confident you will do your jobs well in this agency.

I think that all of us have to be aware of what the public's perception is of the Government. We have to be aware of the needs of the budget. By golly, we are cutting back on food for poor people. We cannot be off ordering muffin stands for ourselves.

I think that this is something, frankly, where you were negligent. I do not see it as being an evil or grubby kind of thing on your part. It is just something where you just signed off. I guess this is the way offices are sometimes run.

Thank you for being here, and this concludes this hearing.

Mr. HAUGHTON. We appreciate your courtesy, your diligence, your understanding, and your sensitivity. We have already spoken our own piece. We would be derelict if we did not thank you for the manner in which you conducted this hearing.

Mr. FRAZIER. Thank you.

Mr. APPLEWHAITE. Thank you.

Senator DANFORTH. Thank you. We are adjourned.

[Whereupon, at 1:30 p.m., the subcommittee was adjourned to reconvene at the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

97TH CONGRESS
2D SESSION

S. 2556

To require that furniture and decorative accessories for use in offices of certain officers of the Government be procured by the Administrator of General Services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 20 (legislative day, MAY 11), 1982

Mr. DANFORTH (for himself and Mr. CHILES) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To require that furniture and decorative accessories for use in offices of certain officers of the Government be procured by the Administrator of General Services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Furniture Purchase Reimbursement Act of 1982".

SEC. 2. Notwithstanding any other provision of law, all furniture and decorative accessories to be used in any office of any officer of the Government appointed by the President, by and with the advice and consent of the Senate, shall be

procured by the Administrator of General Services, unless such requirements can be met by—

(1) excess property available through the Federal Property Resources Service, or directly from another agency, or,

(2) new items available from regular sources of supply maintained by the Federal Supply Service, *Provided,* That the Administrator of General Services may authorize the competitive procurement of such furniture or decorative accessory by the agency after approving the specific requirement therefor.

SEC. 3. Any officer of the Government appointed as described in section 2 who procures or causes to have procured furniture or decorative accessories in violation of section 2 shall be personally liable for any expense to the Government incurred in procuring the furniture or decorative accessories.

SEC. 4. This Act shall take effect with respect to purchases of, and contracts entered into for, furniture or decorative accessories after the date of enactment of this Act.

STATEMENT OF GERALD P. CARMEN, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION

Mr. Chairman, Members of the Subcommittee: I appreciate the opportunity to appear before this subcommittee today to discuss the efforts of the General Services Administration to carry out its responsibilities in helping to manage the Federal Government better.

In the year that I have been head of the agency, I believe we have made substantial progress toward that goal.

Improved management of space occupied by Federal agencies was one of the first priorities we undertook. We began by reducing the space GSA itself occupies by 20 percent. We wrote to all the Cabinet departments and major agencies who had outstanding requests for additional space and asked that they review those requests in light of anticipated program and personnel reductions. We have been working with the Office of Management and Budget to develop a proposed executive order that would require all Federal agencies to reduce their space to the absolute minimum needed for mission accomplishment.

In the area of furniture, before I came to GSA there had been a history of agencies' buying unneeded furniture, improperly disposing of used furniture, and uneconomically using their resources to acquire and store furniture intended for future use instead of ordering it as needed from proper supply channels.

This administration is committed to the efficient and cost-effective operation of the Federal Government and has made it clear that waste of taxpayers' dollars will not be tolerated.

Over the last year, we have been working to establish stringent control of the furniture program as part of our prudent management of Government resources. I have taken a number of positive measures so far to close the gaps which permit misuse and waste.

We are working with OMB to develop a Presidential directive to Federal agencies to reduce Government expenditures by improving their management of personal property.

Promoting the use of excess property as the first source of supply is one of the key factors in that effort. Agencies will save substantially even if they have to pay for this excess property, which I believe they should do.

The GSA material returns program allows agencies which have requisitioned stock items, including furniture, to return them to GSA for credit if they are in new or nearly new condition and are determined to be in excess of actual requirements. These items are placed back in stock for reissue as needed. The program returned $5 million to our inventory during fiscal year 1981, and $3.2 million during the first and second quarters of fiscal year 1982. We believe this program is more cost effective than having merchandise stored and unavailable for use while we make new procurements to satisfy other requirements.

On April 19, 1982, I opened the GSA Furniture Reclamation Center at Franconia, Virginia, as a pilot program to demonstrate the savings the Government can realize from the use of rehabilitated furniture in lieu of new. We have also issued a temporary Federal property management regulation which sets out furniture use standards for Federal personnel.

In conjunction with our space and personal property management efforts, we are looking at our financial accounting systems to insure that we have the proper control and accountability mechanisms to monitor and manage the Federal Government's real and personal property assets. In all these efforts, we are coordinating with our Inspector General to minimize the opportunity for fraud, waste or abuse in these areas.

We recognize that the current state of affairs in the management of these assets is still not what it should be. The errors of the past have shown us what needs to be done in the future. At present we are moving in the right direction, but we do not have all the tools necessary to prevent waste of the Government's resources. With the support we have been receiving from this administration and the interest of this committee, we expect to have those tools in the future.

Mr. Chairman, this subcommittee, the entire Congress, joined by the Nation's press, provide to the American people a vigilant scrutiny of the activities of our Government. I applaud that scrutiny for its contribution to efficient, responsive government.

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[illegible]
[illegible]

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
500 C STREET SW. WASHINGTON, D. C. 20424
(202) 382-0700

OFFICE OF THE CHAIRMAN

February 19, 1982

The Honorable John C. Danforth
Chairman
Subcommittee on Federal Expenditures, Research,
and Rules
Committee on Governmental Affairs
United States Senate
Room 44
128 C Street, N.E.
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter of February 9, 1982, referring to a Federal Times report of expenditures for office furnishings. First of all, I must emphasize that the full extent of the purchases was only recently made known to me and I shared your distress and shock upon learning of the money amounts involved.

My fellow members and I have always instructed our staff to follow applicable GSA guidelines. Even assuming that all of the purchases were made in accordance with these guidelines (which I was always informed by FLRA staff was the case), I believe that some of them were unnecssary and unjustified. Insofar as deficiencies in our internal operating procedures permitted such actions to occur, my fellow members and I are determined to remedy these procedures.

To deal particularly with what happened here, I delegated the acquisition of furniture to the staff. In answer to my questions, the staff stated that the items were all listed, without prices, in catalogs. The staff made the selections without information being available as to cost, because the prices were to be determined through competitive bidding. A solicitation for bids was advertised, and the lowest of the six bids received in response to the solicitation was accepted.

Furnishings purchased for the Office of the Chairman were for several areas, including a large agency-wide reception area which also contains office space for my staff assistant; an agenda/workroom; an office for my executive assistant; and my office.

My first knowledge of cost was when the furniture was received in early November, 1981. At that point, I registered genuine shock and requested that the most expensive items be returned unused to the contractors, even if the agency had to take a penalty discount. I was informed that it was impossible to return these items. I am bothered by the whole set of procedures--catalogs without prices and unreturnable items.

Senator, in recounting what happened in this case, I hope you will not conclude that I seek to evade responsibility on grounds of delegation. The delegation only explains the facts; it does not excuse me from responsibility.

I have asked our Executive Director to report to me as to the overall efficacy of our procurement procedures and as to their compliance with GSA standards. My fellow members are similarly concerned. If there are any defects, and it is likely that there are, I will ask the help of the General Accounting Office to build into our procurement process maximum protection procedures.

I do appreciate your affording me the opportunity of giving you my point of view.

Sincerely,

Ronald W. Haughton

Ronald W. Haughton
Chairman

[illegible]
CHARLES McC. MATHIAS, JR., MD.
JOHN C. DANFORTH, MO.
WILLIAM S. COHEN, MAINE
DAVID DURENBERGER, MINN.
MACK MATTINGLY, GA.
WARREN B. RUDMAN, N.H.

JOHN M. MC ENTEE, STAFF DIRECTOR

[illegible]
HENRY M. JACKSON, WASH.
LAWTON CHILES, FLA.
JIM SASSER, TENN.
DAVID PRYOR, ARK.
CARL LEVIN, MICH.

SUBCOMMITTEE:
JOHN C. DANFORTH, MO., CHAIRMAN
CHARLES H. [illegible], R.I.
DAVID DURENBERGER, MINN.
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HENRY M. JACKSON, WASH.

CHRISTOPHER R. BREWSTER
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON
FEDERAL EXPENDITURES, RESEARCH,
AND RULES
188 C STREET NE, ROOM 44
WASHINGTON, D.C. 20510
(202) 224-0211

February 9, 1982

Honorable Henry B. Frazier, III
Member
Federal Labor Relations Authority
1900 E Street, NW
Washington, D. C. 20424

Dear Mr. Frazier:

The Federal Times for February 8, 1982, reports that you recently spent $57,000 furnishing your office. I am very much distressed by these reports.

The Subcommittee on Federal Expenditures, which I chair, is the principal oversight committee in the Senate with responsibility for government spending practices.

I have asked Gerry Carmen of the General Services Administration for an explanation of how such extravagance could be permitted under GSA rules.

I would also appreciate a letter from you, by February 20, explaining why such expenditures were necessary.

A decision will be made in the near future whether this matter merits Senate hearings.

Sincerely,

John C. Danforth
Chairman

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
500 C STREET SW WASHINGTON, D. C. 20424
(202) 382-0800

MEMBER

February 19, 1982

Honorable John C. Danforth
Chairman
Subcommittee on Federal
Expenditures, Research and Rules
128 C Street, NE., Room 44
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing in reply to your letter of February 9, 1982, requesting an explanation why certain expenditures were made for office furniture for this agency.

To put these expenditures in perspective, I should begin by pointing out that the Federal Labor Relations Authority (FLRA) was established as a new agency of the Federal Government in January 1979. These purchases represent initial purchases of permanent furnishings for a new agency. The cost of the furnishings, carpeting and wallcovering which you question (Contract No. FLRA 81-C-0002) was paid from "start-up" money appropriated by Congress and obligated to GSA in FY '79.

That part of the furniture, carpeting, draperies and wallcovering, which was purchased under the contract for me was for my personal office, as a Member of the Authority, as well as for office space for my Executive Assistant and for my Staff Assistant, a file room, a reception area and an agenda/work room. Thus, the expenditures which were the subject of the Federal Times article were not for my personal office alone as the article implied but for a series of offices and related work areas.

I am not an expert in Federal procurement procedures, office furnishings or office design. However, I can describe my responsibility in the selection of the furniture for my offices and work areas. First, I was shown photographs of office furniture, fabric samples and furniture chips. No prices were quoted; I understood that this was because the prices were to be set by competitive bid. I was asked to designate the furnishings which I would propose for the offices and work areas involved. In making these designations, I considered the size of the offices, agenda/work room, reception area and file room involved and recognized that I was involved in the process of selecting permanent furnishings not for my use alone, but for the use of my successors; hence, the items should be of sufficiently good

quality that they would last through the terms of several Members and would be sufficiently conventional in style and design so that my successors would find the style and design acceptable to their needs.

After I completed the process of designating items which I proposed for my offices, competitive bids were sought by the staff to establish the lowest possible price for the furnishings involved. Thus, it was through an open, public, competitive process that the cost of the furniture was established.

I have asked the Executive Director of the agency personally to direct a review of the entire procurement to insure that it was done in accordance with established requirements and procedures and to report back with his findings. I understand that GSA is also reviewing this procurement. Should any deficiencies be reported, immediate corrective action will be directed and I would propose that such action also include a review by the General Accounting Office of our internal procedures to insure that all future procurements are done strictly in accordance with governing requirements. While I am not qualified to determine whether there were technical or regulatory deficiencies in this procurement, I do believe that our agency suffers in this and in many other areas from its small size and tight restrictions on staffing. We have only one experienced contracting/procurement officer on our staff.

As I reflect upon this particular procurement, I regret that I did not take time to become more directly involved and exercise a greater degree of attention and managerial direction of that part of the procurement involving my office. For example, I discovered only after the fact that the contract was let to the lowest bidder without informing me of the individual cost or the total cost of the items which had been proposed for my office. To my embarassment, it was only after the contract had been let and furniture began to be delivered that the individual prices of the items for my office and those of my staff came to my attention. Had I known of the prices of some of the individual pieces, other selections would have been made. I can assure you, however, that no impropriety was ever sought or intended by me in this procurement.

I would be pleased to have the opportunity to meet with you or your staff to discuss this matter. I have attached additional background information which may be helpful. I would be glad also to provide you or your staff with any further information you may require. I may be reached at 382-0800.

Sincerely,

Henry B. Frazier III

Henry B. Frazier III
Member

Enclosure

BACKGROUND INFORMATION

1. In the Supplemental Budget Request in FY '79, the FLRA requested $1,789,000 which included $860,000 as one-time and non-recurring costs to pay for expenses related to the "start-up" and physical establishment of the agency. This Supplemental Budget Request was approved by Congress in late July 1979. The $860,000 "start-up" money was obligated by Work Order to GSA in FY '79 to cover costs of renovating office space, purchasing equipment and furnishings, designing and installing communications systems and other expenses associated with our eventual move into our first National Headquarters office space.

2. During 1979 and 1980, GSA attempted to locate office space for the FLRA. In the meantime, our people were housed temporarily in several locations in downtown Washington, including some at the Department of Labor and some in the Office of Personnel Management. After one false start involving office space at 1726 M Street, NW., GSA assigned the FLRA office space in our current location at 500 C Street, SW. The office layout and design work which had been developed for the M Street location was scrapped and a new layout had to be designed for the C Street location. These new final blueprints were prepared and approved by GSA in accordance with their published standards.

3. The furniture, carpeting and wallcoverings at issue were procured through formal advertising of a solicitation for bid. Forty-nine requests for a copy of the solicitation were received after the solicitation was advertised in the Commerce Business Daily of the Department of Commerce. Six bids from companies in the private sector were eventually received. The bids were analyzed by our contracting officer and an award was made to the lowest bidder.

4. After the contract was awarded, one unsuccessful bidder did protest the award of the contract with the Comptroller General of the United States. In Decision B-203172 (June 1, 1981) the Acting General Counsel of the General Accounting Office dismissed the protest as untimely finding that under the circumstances no useful purpose would be served by holding a conference on the merits.

WILLIAM V. ROTH, JR., DEL., CHAIRMAN
CHARLES H. PERCY, ILL.
TED STEVENS, ALASKA
CHARLES McC. MATHIAS, JR., MD.
JOHN C. DANFORTH, MO.
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CHRISTOPHER R. BREWSTER
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON
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FEDERAL EXPENDITURES, RESEARCH,
AND RULES
119 C STREET NE, ROOM 44
WASHINGTON, D.C. 20510
(202) 224-0211

February 9, 1982

Honorable Leon B. Applewhaite
Member
Federal Labor Relations Authority
1900 E Street, NW
Washington, D. C. 20424

Dear Mr. Applewhaite:

The Federal Times for February 8, 1982, reports that you recently spent $38,000 furnishing your office. I am very much distressed by these reports.

The Subcommittee on Federal Expenditures, which I chair, is the principal oversight committee in the Senate with responsibility for government spending practices.

I have asked Gerry Carmen of the General Services Administration for an explanation of how such extravagance could be permitted under GSA rules.

I would also appreciate a letter from you, by February 20, explaining why such expenditures were necessary.

A decision will be made in the near future whether this matter merits Senate hearings.

Sincerely,

John C. Danforth
Chairman

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
500 C STREET, SW WASHINGTON, DC 20424

LEON B APPLEWHAITE
MEMBER

(202) 382 0900

February 15, 1982

The Honorable John C. Danforth
Chairman
Subcommittee on Federal Expenditures,
Research and Rules
128 C Street NE, Room 44
Washington, D.C. 20510

Dear Chairman Danforth:

This letter is in response to your letter of February 9, 1982, regarding an explanation of the $38,000 expended for furnishing my suite of offices. In order to put this in proper perspective, it is necessary for me to provide you with a brief historical background.

The Federal Labor Relations Authority (Authority) was created pursuant to the Civil Service Reform Act of 1978. Subsequently, there were three newly appointed Members, each with a staff of one Executive Assistant and a Staff Assistant for administrative and support functions. Pursuant to the establishment of the Authority, Congress authorized $860,000 as a "one-time and non-recurring cost" to pay "for administrative costs incidental to the Authority's start-up activities" and "association with the physical establishment of the Authority." This appropriation was placed in a General Services Administration (GSA) escrow account to be used for the establishment of the agency's national headquarters. On October 25, 1981, the Authority moved into its permanent national headquarters at 500 C Street, SW.

Each member's suite is comprised of the member's private office and an agenda-workroom, the executive assistant's office, a combination reception room and staff assistant work area, and a storage file room. All of this space, as designed by GSA, is in accordance with the GSA regulations for the positions and grades involved.

In reference to the furnishing of my suite, after GSA approval, I directed my executive assistant and my staff assistant to select furnishing for my suite. My explicit instructions and guidelines stressed the fact that these furnishings were not for me as an individual, but rather were for the position. They were directed to select furnishings which would be functional and durable, and in no way extravagent. At the time selections were made, I wish to emphasize my assistants did not have access to a price list. They were advised by Mr. R. W. Wolfe, at that time our office services manager, that our selections were below the GSA ceiling.

I too was appalled when I was apprised of the money that had been expended to furnish my suite, even though it was below GSA standards and parameters, and completely in accordance with procedures established by GSA.

I have taken the initiative to immediately appoint an internal investigative team to analyze the procedures followed and the actual steps taken by our agency, pursuant to GSA rules and regulations, in the procurement of furnishings for the Authority's permanent national headquarters. This team will be comprised of three professional individuals, who were in no way connected with the actual procurement of furnishings, or involved in either the planning or administering of the physical move to our present offices. Their names are as follows:

George W. Birch, Chairperson
Ronald W. Sendak
Dawn Bennett-Alexander

It is my firm belief that this investigation will be fully responsive to your concerns. However, if I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

Leon B. Applewhaite

WILLIAM V. ROTH, JR., DEL., CHAIRMAN
JOHN C. DANFORTH, MO., CHAIRMAN
CHARLES H. PERCY, ILL.
DAVID DURENBERGER, MINN.
LAWTON CHILES, FLA.
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AND RULES
120 C STREET NE, ROOM 44
WASHINGTON, D.C. 20510
[202] 224-0211

February 9, 1982

Honorable Gerald P. Carmen
Administrator
General Services Administration
18th and F Streets, NW
Washington, D. C. 20405

Dear Mr. Carmen:

The February 8th issue of Federal Times reports that the Federal Labor Relations Authority recently spent $150,000 for furnishing offices for the three Authority members.

According to Federal Times, these expenditures included:

(1) Two $1,712.67 Barcelona chairs for Chairman Ronald Haughton

(2) Two $2,047 "elm burl" credenzas with a matching $3,785.36 conference table, also for the Chairman

(3) An $833.69 Barcelona table and two side tables costing $852.26, also for the Chairman

(4) A $1,792.10 office table in "mahogany and mahogany veneer" for Member Henry Frazier, III

(5) A $328.52 "muffin stand" for Mr. Frazier

(6) $7,453 for 100 rolls of "Leaves of Grass" wall-covering for Member Leon Applewhaite

(7) A $2,880.50 racetrack conference table in "golden bronze finish" for Mr. Applewhaite

All told, expenses for furnishings cost $59,000 for Mr. Haughton, $57,000 for Mr. Frazier, and $38,000 for Mr. Applewhaite.

According to FLRA spokesman James Shepard, quoted in Federal Times, these expenditures were "in accordance with General Services Administration regulations and procedures." Mr. Shepard also states that, since the funds were appropriated and obligated in FY '79, "none are available to cover operational expenses of the FLRA during its current fiscal crisis."

Let me tell you what I think of these expenditures, whether they were for FY '79, FY '80, or any other year.

I think they are obscene.

Let me tell you what I think of GSA regulations which would permit such expenditures.

I think they need to be changed. Now.

I would greatly appreciate an accounting from you, by February 20, of the regulations which permit such expenditures, and your plans for changing them. If you do not believe the regulations should be changed, I want to know why.

I will be looking for a personal reply to this letter, not a reply from Mr. Kline or any other GSA employee.

As you know, the Subcommittee on Federal Expenditures, which I chair, is responsible for oversight of the General Services Administration. As you know, wasteful procurement practices by the GSA in the field of furniture procurement have been a constant source of frustration to this subcommittee for several years. If you are unwilling or unable to provide us with a proposal to address the problem of extravagant furniture expenditures, I will be prepared to offer a legislative solution.

I am taking the liberty of sharing this letter with the press.

Sincerely,

John C. Danforth
Chairman

General Services Administration
Office of the Administrator
Washington, DC 20405

FEB 19 1982

Honorable John C. Danforth
Chairman, Subcommittee on
Federal Expenditures, Research and Rules
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your letter of February 9, 1982 bringing to our attention furniture purchases by the Federal Labor Relations Authority. It is illustrative of the issue we are working to resolve regarding compliance by agencies with our regulations.

I fully share your concern about expenditures of this sort.

GSA issues two types of regulations pertinent to this issue. The Federal Property Management Regulations establish stringent requirements for the purchase of furniture. The Federal Procurement Regulations establish the process which agencies must follow in their own procurement activities.

I am advised that the FLRA clearly failed to follow the regulations on furniture purchases as outlined in the enclosure. The effect of that failure was an unauthorized direct purchase.

Whether or not FLRA followed the Federal Procurement Regulations is entirely moot since the direct purchase itself was unauthorized.

I am taking the liberty of forwarding a copy of your letter and my response to the Comptroller General for his review since it is the responsibility of the General Accounting Office to ensure that agencies expend appropriated funds in accordance with applicable laws and regulations. A copy of my letter to the Comptroller General is enclosed for your information.

Sincerely,

GERALD P. CARMEN
Administrator

Enclosure

FEDERAL LABOR RELATIONS AUTHORITY (FLRA)
FURNITURE PURCHASES

The Federal Property Management Regulations (FPMR) direct agencies to purchase the minimum quantity and quality of property necessary to support the mission of the agency. In this regard, agencies are required to limit the purchase of new office furniture to absolutely essential requirements which cannot include upgrading to improve appearance or status or to satisfy a desire for the latest design or more expensive lines. Furthermore, agencies must satisfy their requirements for office furniture and furnishings from General Services Administration (GSA) stock or Federal Supply Schedule contracts. A copy of the applicable regulations is enclosed for your information.

If furniture or furnishings available from GSA sources will not serve the required functional purpose, agencies must submit requests to GSA to waive the requirement for use of GSA sources. Agencies must fully justify their waiver requests. Justifications based on personal preference or subjective evaluations are not acceptable.

The style of furniture procured by FLRA is not available from GSA sources and FLRA did not submit a waiver request for our consideration. Had they done so, GSA would have developed a more cost effective alternative to satisfy their requirement.

Enclosure

§ 101–26.103 Establishing essentiality of requirements.

§ 101–26.103–1 Policy for personal property.

To obtain maximum benefit from Government funds available for procurement of personal property, each executive agency shall:

(a) Insure that personal property currently on hand is being utilized to the fullest extent practical and provide supporting justification prior to effecting new procurement for similar type property. (When the proposed procurement is for similar items from non-GSA sources, the provisions of § 101–26.100–2 apply.)

(b) Procure the minimum quantity and quality of property which is required to support the mission of the agency and to satisfy the function for which the property is required.

(c) Limit procurement of different varieties, types, sizes, colors, etc., of required items to those essential in satisfying the functional end-use purpose. To this end the quantity, quality, and variety of personal property required to adequately perform the end-use function should be determined prior to initiation of procurement processes.

§ 101–25.101 Acquisition of office furniture and office machines.

Each executive agency shall make a determination as to whether the requirements of the agency can be met through the utilization of already owned items prior to the acquisition of new furniture or office machines. The acquisition of new items shall be limited to those requirements which are considered absolutely essential and shall not include upgrading to improve appearance, office decor, or status, or to satisfy the desire for the latest design or more expensive lines.

(a) Generally acquisition of additional furniture or office machines from any source will be authorized only under the following circumstances, limited to the least expensive lines which will meet the requirement (see § 101–26.408 of this chapter with respect to items such as typewriters under Federal Supply Schedule contracts), and the justification for the action shall be fully documented in the agency file:

(1) For essential requirements arising from quantitative increases in onboard employment which constitute the total requirement of any agency or major component thereof (e.g., bureau, service, office).

(2) For essential requirements arising from a need not related to onboard employment increases but which are determined necessary to avoid impairment of program efficiency.

(b) Each agency shall restrict replacement of furniture or office machines either to usable excess, rehabilitated, or the least expensive new lines available which will meet the requirement under the following circumstances, authority for which shall be fully documented in the agency file:

(1) Where the agency determines that the item is not economically repairable.

(2) Where reductions in office space occupancy are accomplished through use of more convenient or smaller size furniture and the space economies thus achieved offset the cost of the furniture to be acquired.

§ 101–26.505 Office and household furniture and furnishings.

Requirements for new office and household furniture and furnishings as described in this § 101–26.505 shall be satisfied from GSA stock or Federal Supply Schedule contracts to the extent that agencies are required to use these sources. Requirements for items not obtainable from these sources may be satisfied by any Federal agency through GSA special buying services upon agency request pursuant to the provisions of § 101–26.102. Before initiating a procurement action for new items, items on hand should be redistributed, repaired, or rehabilitated, as feasible, pursuant to § 101–26.101.

§ 101–26.505–3 Requests to procure similar items from sources other than GSA supply sources.

When an agency required to obtain items of office and household furniture and furnishings from GSA stock or Federal Supply Schedule contracts determines that items available from these sources will not serve the required functional end use, requests to procure similar items from other than GSA sources shall be submitted for consideration in accordance with § 101–26.100–2.

§ 101–26.100–2 Request for waivers.

When items or services provided by GSA stock or Federal Supply Schedule will not serve the required functional end-use purpose, requests to waive the requirement for use of GSA sources shall be submitted to GSA for consideration. Personal preference, subjective evaluations, or lower cost without other substantive considerations are not acceptable as sufficient justification for a waiver. Waivers are not required for items or services procured in accordance with policy set forth in § 101–26.100–1 relating to the acquisition of the lowest cost item from GSA sources.

(a) Requests for waivers shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406, and, if considered justified, will be approved. If disapproved, the requesting office will be so notified. Such request shall contain:

(1) Complete description of the item requested. (Descriptive literature such as cuts, illustrations, drawings, and brochures which show the characteristics or construction of the item or explain its operation should be furnished wherever possible in satisfaction of this requirement.)

(2) Comparison of price and pertinent technical differences between the item requested and the GSA item.

(i) Inadequacies of the GSA item in performing required functions.

(ii) Advantages of the item requested, such as technical, economic, or other.

(3) Quantity required. (If demand is recurrent (estimate annual usage), nonrecurrent, or unpredictable, so state.)

(4) Other pertinent data when applicable.

(b) Agencies shall not initiate action to procure similar items from non-GSA sources until a request for a waiver has been requested from and approved by GSA. The fact that action to procure a similar item has been initiated will not influence GSA action on a request for waiver.

General
Services
Administration Washington, DC 20405

Honorable Charles Bowsher
Comptroller General of the United
States
General Accounting Office
Washington, DC 20548

Dear Mr. Bowsher:

Enclosed is a copy of correspondence recently received from Senator John C. Danforth, Chairman of the Subcommittee on Federal Expenditures, Research and Rules, concerning furniture purchases made by the Federal Labor Relations Authority (FLRA). I am also enclosing a copy of my response to Chairman Danforth.

It appears the FLRA procurement was not accomplished in accordance with the appropriate Federal Property Management Regulations.

I am forwarding the inquiry to you for direct response since it is the responsibility of the General Accounting Office to ensure that agencies expend appropriated funds in accordance with applicable laws and regulations.

Sincerely,

Enclosures

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
WASHINGTON, D.C. 20424

July 22, 1982

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Enclosed are four copies of a report on a violation of section 3679 of the Revised Statutes, as amended, 31 U.S.C. § 665, within the Federal Labor Relations Authority (the Authority). While this violation is wholly technical in nature, as detailed in the accompanying report, this report is filed in compliance with the letter and spirit of the law and with the administrative responsibility in connection therewith. The Authority is currently awaiting receipt of a report from the General Accounting Office (GAO) which, we are informally advised, will refer to this matter.

The Authority has found no evidence to indicate that any willful violation is involved. Rather, the violation was caused primarily by a unique set of circumstances surrounding the creation of the Authority as an agency in early 1979 (see Reorganization Plan No. 2 of 1978, 3 C.F.R. 323 (1979); and Title VII of the Civil Service Reform Act of 1978, 92 Stat. 1191), and an apparently good-faith misunderstanding on the part of certain former Authority administrative staff employees as to the ramifications of having obligated the appropriation at issue herein. The administrative system of fund control within the Authority, as prescribed in Authority regulations, is currently under review to ensure its adequacy. Additionally, certain other administrative actions, detailed in the accompanying report, have been or will be taken at the Authority's direction to address this situation and to prevent any recurrence. Moreover, it is the Authority's firm intention to ensure strict compliance with the provisions of 31 U.S.C. § 665 in all financial matters. Further, the advice of GAO and the Office of Management and Budget has been and will continue to be sought so as to ensure maximum effective accounting controls.

Because of the circumstances described in the report, we believe that the administrative actions detailed therein fully address the situation and assure that a similar situation will not recur. No disciplinary action appears to be appropriate in view of these unique circumstances, as well as the fact that the personnel primarily responsible for the technical violation are no longer employed by the Authority.

Copies of this report are also being submitted to the presiding officer of both Houses of Congress and to the Director, Office of Management and Budget.

Member Leon B. Applewhaite, who took the oath of office as a Member of the Authority on August 16, 1979, submits a separate statement below.

For the Authority,

Ronald W. Haughton
Chairman

Henry B. Frazier III
Member

Enclosure

While I was not a member of the Authority when the decision to obligate the $860,000 to the General Services Administration was made, I fully concur in the filing of this report.

Leon B. Applewhaite
Member

FEDERAL LABOR RELATIONS AUTHORITY

REPORT ON A VIOLATION OF SECTION 3679
OF THE REVISED STATUTES, AS AMENDED, 31 U.S.C. § 665

Appropriation Title And Symbol: Additional amount for "Salaries and expenses" for the Federal Labor Relations Authority (Authority or FLRA), FY 1979, appropriation symbol 5490100.

Type Of Violation: Based on verbal assertions made by General Accounting Office (GAO) auditors during their recent audit of FLRA procurement practices, and based on intensive internal investigation by the Authority, it has been determined that various obligations incurred by the Authority during the period February 1980 through September 1981 constitute an overobligation of the above-referenced appropriation. It is to be emphasized at the outset, however, that this overobligation could not have resulted in an expenditure in excess of the appropriation, for the reasons set forth at p. 6, below. For this reason the violation is purely technical in nature.

Amount Of Violation: The total amount of the overobligation is currently calculated to be $340,505.48. This total amount is broken down into individual obligations as follows:

Date of Obligation1/	Amount of Obligation
2/06/80	$ 3,653.13
3/28/80	18,233.00
4/01/80	3,873.50
11/23/80	22,384.13
6/05/81	88,808.13
7/16/81	50,758.59
7/30/81	2,546.67
8/13/81	266.04
8/13/81	376.00
8/14/81	400.00
8/17/81	94.25
8/24/81	3,207.00
8/24/81	7,500.80
8/26/81	7,520.00
9/02/81	61.00
9/15/81	3,516.25
9/22/81	857.00
9/22/81	114,847.19
9/23/81	11,500.00
9/26/81	102.80
	$340,505.48

1/ The obligations comprising the overobligation are those obligations which were placed by staff of the Authority with private vendors for goods and services connected with start-up of the agency pursuant to Reorganization Plan No. 2 of 1978, 3 C.F.R. 323 (1979) and Title VII of the Civil Service Reform Act of 1978, 92 Stat. 1191 (CSRA), and which were charged against the subject appropriation, and paid by the U.S. Treasury as authorized by the FLRA. They are described in more detail at pp. 5 to 6, below. The determination was made by former Authority administrative staff that these commitments to private vendors constituted valid obligations of the subject appropriation, and were consistently charged against

(Continued)

Pertinent Facts Concerning The Violation:

The primary reasons for the technical violation of 31 U.S.C. § 665 in this matter are: 1) the relatively short time period of availability of the subject FY 1979 appropriation for obligation by the Authority (i.e., approximately two months); 2) the unique problems associated with initiation of operations of a new agency in the federal government; 3) the two years and ten months after inception of the Authority that the General Services Administration (GSA) took to obtain headquarters office space for the Authority; and 4) the apparent misunderstanding on the part of certain former Authority administrative staff employees as to the ramifications of having obligated the subject appropriation.

The overobligation of the subject appropriation that occurred does not appear to have been willful on the part of Authority employees. Rather, it apparently was the product of a good-faith misunderstanding by these employees regarding the proper administration of the subject appropriation. The particular circumstances regarding this technical violation of 31 U.S.C. § 665 are now set forth.

A. Obligations Placed On The Subject Appropriation

The appropriation at issue herein was part of the Supplemental Appropriations Act of 1979, Pub. L. No. 96-38, 93 Stat. 97. As regards the Authority, Title I of this Supplemental Appropriations Act appropriated a total of $1,360,000 for "Salaries and expenses."2/ Id., 93 Stat. at 124. This supplemental appropriation legislation became effective on July 25, 1979, and the Authority's appropriation thereunder was made available for obligation through September 30, 1979. The total of $1,360,000 represented the full amount of the supplemental appropriation sought by the Authority.

The Authority's request for the supplemental appropriation was composed of two basic components. One of these components was $500,000 for new functions to be performed by the Authority as a result of Reorganization Plan No. 2 of 1978

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the FY 1979 start-up fund during FY 1980 and FY 1981. Charging these obligations against the 1979 appropriation appears to be inconsistent with correct procedures. This point, and the possible deficiencies for FY 1980 and the FY 1981 that such incorrect charging of the obligations may give rise to, are discussed at pp. 8 to 9, below. Subsequent orders placed by the Authority with GSA in FY 1980 and FY 1981 do not constitute additional obligations of the FY 1979 appropriation, but rather serve to partially liquidate the original obligation incurred with GSA in FY 1979, as described at pp. 3 to 5, below.

The dates used in connection with these subsequent obligations from the start-up fund are the dates of issuance of the order or requisition, or the date of execution of the contract, and not the date of delivery or performance of services, or payment therefor.

2/ Title II of this supplemental appropriation separately appropriated $429,000 to the Authority for the purpose of satisfying increased payroll costs engendered by the civilian pay increase of FY 1979. The total appropriation to the Authority under this supplemental appropriation act was thus $1,789,000. This separate appropriation for the pay increase is not here at issue, and will not be discussed further.

and the Civil Service Reform Act of 1978.3/ The other basic component of the request, and the one that is relevant to the present situation, was $860,000 for "start-up" costs associated with establishment of the Authority as a new agency in the government. These costs included such items as moving to a headquarters office and establishing nine regional offices and several subregional offices;4/ renovating and remodeling such office space as it was acquired; obtaining equipment and furniture; and relocating to regional offices employees of predecessor agencies to the Authority.

Both the House and Senate Appropriations Committees reported out the Authority's supplemental request favorably. The Senate Committee stated in its report that it "recommends approval of the full [Authority supplemental] request. The Committee fully supports the activities of the Federal Labor Relations Authority and is interested in providing the Agency with all necessary resources to carry out the responsibilities assigned to it." S. Rep. No. 824, 96th Cong., 1st Sess. 153 (1979). The House Appropriations Committee also recommended approval of the full amount of the Authority's supplemental request. Concerning the start-up fund, the House Committee report expressly recognized the need for such a fund to enable the agency to, among other things, "locate space . . ., do renovation work, install communications, physically move offices and relocate employees, as required. These are one time and non-recurring costs which are associated with the physical establishment of the Authority." H.R. Rep. No. 227, 96th Cong., 1st Sess. 132 (1979). The bill was approved by the President on July 25, 1979. [1979] Pub. Papers 1320.

Given the very short period of time during which the supplemental appropriation was available for obligation (i.e., two months); what at that time appeared to be an imminent move into headquarters office space at 1726 M St., NW., Washington, D.C. (see p. 7, below); and in light of Congress' clearly stated intent that the Authority have these start-up funds available to it, former administrative employees on the Authority staff sought to obligate the start-up fund prior to the end of FY 1979. In this connection, discussions were initiated by these employees with representatives of GSA and OPM in August 1979.5/ The purpose of these discussions was to arrange for issuance by the

3/ Under the Reorganization Plan and the CSRA the Authority was created as a new agency in the executive branch to oversee the conduct of labor-management relations in the federal government. It has assumed duties previously performed by several other agencies pursuant to executive order, and also performs various other duties under the CSRA not previously performed by other agencies. This amount appropriated for new functions was validly obligated in its entirety in FY 1979.

4/ At its inception the headquarters of the Authority was housed in the offices of various other agencies, such as the Office of Personnel Management (OPM), another government agency created by Reorganization Plan No. 2 and the CSRA, and the Department of Labor. A separate headquarters facility, capable of accomodating all Authority headquarters staff in one location, was necessary in order to ensure, among other things, the independent role of the Authority in federal labor relations intended by the Reorganization Plan and the CSRA and efficiency of Authority operations. Because efforts to obtain headquarters office space for the Authority were protracted over a period of years and because these efforts are essential to an understanding of the Authority's obligation of the start-up fund, these space-acquisition efforts are discussed separately at pp. 7 to 8, below.

5/ OPM was serving as the Authority's accounting agent during FY 1979.

Authority of a reimbursable work authorization (RWA), GSA Form 2957, to the GSA for the full amount of the start-up fund. The RWA would authorize GSA to perform various kinds of remodeling and refurbishing work on the office space anticipated to be occupied by the Authority, and provide necessary equipment to the Authority. The issuance of such an RWA to GSA would serve to obligate the start-up fund, and thus prevent it from lapsing at the end of FY 1979. No funds were to be transferred from FLRA to GSA in connection with this RWA. Rather, specific orders for specific work were to be subsequently placed against this initial RWA. The start-up fund itself would remain in the Authority's account in the meantime.

As a result of these discussions during August 1979, on August 13 a GSA representative orally advised the Authority staff that GSA would accept the RWA discussed above. Accordingly, on August 17, 1979, the contracting officer of the Authority delivered such an RWA to GSA bearing that date. It was physically accepted by an employee of GSA on that date.

This RWA specifies that GSA is to "refurbish, renovate and generally improve and remodel the quarters to be occupied by the Federal Labor Relations Authority." Although these are primarily services, there is no indication that the original purpose of the start-up fund, to include the provision of all necessary resources associated with start-up, was to be changed. The work is to be done at "Headquarters and Regional Offices and any interim staging areas necessary for ultimate relocations." Blanks on the RWA form for "start" and "completion" dates for the work are not filled in. The "open end amount" to be spent is $860,000.00. The form is signed by the Authority's contracting officer at the time. His signature certifies that "this constitutes a valid obligation and an order for GSA to perform the work described above."

GSA representatives have recently stated to Authority staff that GSA did not at any time enter the RWA into GSA's accounting system as, for example, an accounts receivable; nor did they countersign and return the RWA to the Authority; nor did they conduct estimates of work to be done in accordance with the RWA. Further, GSA representatives have recently indicated to the Authority staff that GSA came to view the 1979 RWA as being invalid subsequent to its issuance, based on the eventual withdrawing by GSA of office space previously offered to the Authority, as described at pp. 7 to 8, below. Thus, these GSA representatives state that they returned the RWA to the Authority's contracting officer some time in early 1980. This former Authority employee denies that it was returned to him.6/

6/ Further in this regard, an RWA submitted to GSA by the Authority in September 1981, for erection of walls and other structural work in the Authority's present headquarters building, originally stated that it was to "replace [the RWA] signed 8-17-79." GSA representatives advised that they did not accept the September 1981 RWA with the "replace" designation, since GSA did not view the original August 1979 RWA as still being valid. Accordingly, these GSA representatives have indicated that they directed that the above-referenced replacement designation on the September 1981 RWA be crossed out before GSA would accept it. This was done by the contracting officer of the Authority and the September 1981 RWA was accepted by GSA for processing. GSA's direction to delete the replacement designation in the 1981 RWA was an indication that GSA no longer considered the 1979 RWA to be valid. This determination by GSA was apparently not understood by Authority administrative staff, and was not reported to the Authority Members.

Subsequent to delivery by the contracting officer of the RWA to GSA, the Authority's Director of Administration transmitted a copy thereof to the Authority's accounting agent, OPM, on August 31, 1979. In his letter of transmittal to the Chief, Fiscal Division of OPM, FLRA's Director of Administration stated that the RWA "authoriz[ed] GSA to expend up to $860,000 to refurbish, renovate, and generally improve and remodel" FLRA headquarters and regional offices. The Director of Administration also stated that "the proposed GSA schedule calls for the planning and design to begin immediately with the construction to follow thereafter." Further, he advised that the RWA and his transmittal letter to OPM constituted a "valid obligation" of the start-up fund, and that "when GSA completes its work, we [FLRA] will be invoiced by GSA for the exact cost of all work performed, not to exceed $860,000."7/ OPM's Fiscal Division Chief acknowledged receipt of the RWA and its transmittal letter on August 31, 1979. The Authority reported the obligation of the start-up fund to the Treasury Department on its Report of Obligation for September 30, 1979, Treasury Form 225, and continued to show it as an obligation in subsequent reports including the Authority Members' presentation regarding the President's budget submission to Congress for FY 1981.

Believing the start-up fund to have been obligated in FY 1979, FLRA staff began in October 1979 to place specific orders with GSA against that obligation.8/ Thus, various RWA's and other orders were issued to GSA during late 1979 and early 1980 for specific work to be done and goods to be purchased in connection with the Federal Service Impasses Panel's (FSIP's) move into its new quarters at 1730 K St., NW., Washington, D.C. (The FSIP is an entity within the Authority

7/ In a memorandum dated August 31, 1979, to all of the Members of the Authority, the General Counsel of the Authority and the Authority's Deputy Executive Director, the Director of Administration transmitted copies of these documents dated August 17 and August 31, 1979, which he stated "officially obligate the $860,000 . . . ." In this memorandum the Director of Administration stated further that "in addition to salvaging this money which we would have lost forever if it had not been so obligated, this eases the burden on the procurement staff of 2 to complete the many actions otherwise to have been taken for use of excess funds in procurements of extras to the extent of this $860,000, and removes the worry about how we would have handled the renovations in FY 1980 from the 1980 budget if we had lost these dollars."

8/ Staff members did not apparently view the obligation as restricting them to GSA as the sole supplier of goods and services relating to start-up expenses. In fact, a former administrative staff member who was involved in these events has indicated that no particular thought was given to whether there were any restrictions imposed on the Authority regarding the source of goods and services as a result of the obligation. Also, Authority staff members have stated that they did not view the August 1979 RWA as being limited to a move to any specific building, such as M Street. Rather, staff viewed the start-up monies as being available for any "one-time-only" expenses associated with start-up. The staff so advised all of the Authority Members as to the status of the account and the unexpended amount therein, in conjunction with a review of the status of funds for FY 1980 (see p. 6, fn. 10, below).

under the CSRA.) Also, several obligations were incurred with private vendors during the period February through November 1980.9/ This initial phase of expenditures and obligations with GSA and private vendors, amounting to thirteen separate items totalling approximately $55,000, was concluded in November 1980.10/ Nine of the thirteen items were RWA's to GSA to perform various kinds of work on FLRA and FSIP office facilities. The remaining four orders were to private concerns for FSIP furnishings and FLRA moving costs. Internal accounting procedures were established by the Authority staff to ensure that actual contracts and orders under the fund never exceeded $860,000.00. Specifically, each new order or obligation made from the start-up fund, whether to GSA or a private vendor, was deducted from the initial total of $860,000.00. This "running balance" would reflect the amount of the fund remaining available for expenditure at any given time. Accordingly, it was clear that actual expenditures of the start-up fund would never exceed the amount of the fund itself, and in fact they never did. It is for this reason that the violation of the Act in this case can accurately be described as being wholly technical in nature.

During the period November 1980 through June 1981 there were no orders or additional obligations placed on the subject appropriation. However, beginning in June 1981, apparently in response to confirmation of availability of the Authority's present headquarters space at 500 C St., SW., Washington, D.C. (see p. 8, below), further obligations of the start-up fund were incurred with private vendors. These obligations, totalling approximately $300,000, were made either by way of contract or purchase order for various goods and services.11/

Concerning all of the above-referenced obligations with private concerns, Authority staff did not amend or seek to amend the original August 1979 RWA delivered to GSA, to indicate to GSA that various items were being obtained from private vendors. It does appear, though, that certain components of GSA were aware of the use by the Authority of private vendors. For example, GSA representatives from its interior design division were present at meetings during 1980 with Authority staff members who were accompanied by representatives

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9/ Transactions with private vendors based on the start-up fund appear to have been motivated by a perception on the part of administrative staff that GSA would not be in a position to perform certain needed tasks. This capacity was likewise not available within the Authority.

10/ Eleven of these thirteen items were initially charged to FY 1980 funds, rather than the FY 1979 start-up monies. The reason for this appears to have been that, even though staff did not view the 1979 RWA or the supplemental appropriation itself as necessarily restricting expenditures to a specific move to a specific location (see p. 5, fn. 8, above), it had been decided by various management officials to be prudent to "save" the start-up fund for expenditures only when a specific headquarters location had been obtained. Because no such location had been obtained as of late 1979 and early 1980, FY 1980 funds were used initially.

However, in the spring of 1980 FLRA staff determined that steps had to be taken to curtail spending in FY 1980. Accordingly, these eleven expenditures were retroactively charged back against the start-up fund in May 1980.

11/ Orders were also placed by the Authority with GSA during this time for various goods and services, and were charged to the start-up fund.

of a private design firm that worked with the Authority in planning office layouts in 1980 and 1981. Concerning the failure of FLRA administrative staff to execute amending documents to GSA, it appears that this is accounted for at least in part by the staff's lack of perception that the original RWA in any way limited the sources from which the Authority could obtain goods and services.

As of the date of this report there is an unexpended balance in the start-up fund of approximately $196,000. Expenditures from the start-up fund were halted effective October 1, 1981.

B. The Authority's Search For Headquarters Office Space

Obtaining office space for the Authority's own national headquarters and regional offices was identified as a priority matter by management of the Authority's predecessor, the Federal Labor Relations Council (FLRC), well before the Authority came into existence in January 1979.12/ For example, in July 1978, Alan Campbell, Chairman of the former Civil Service Commission and the FLRC, wrote a letter to the Director of GSA urging that separate office space be provided to both the Authority and the Merit Systems Protection Board (MSPB) promptly after their inception under Reorganization Plan No. 2 and the CSRA. The rationale given for such separate space was the efficiency of operation resulting from adequate space and the CSRA's goal of independence and separation of the Authority.13/

In accordance with this recognition of the importance of office space, staff of the former Civil Service Commission, on behalf of the FLRC, sent an SF 81 form requesting such space to GSA in October 1978. Meetings were held between FLRA and GSA representatives to discuss the subject in February 1979. Subsequent to these meetings, GSA prepared and submitted to the Authority specifications to be included in solicitations for office space. These specifications were approved by the Authority in early March 1979.

On April 11, 1979, GSA verbally offered space to the Authority at 1726 M St., NW., Washington, D.C., with occupancy due to begin in August 1979. The verbal offer was accepted by the Authority in early May 1979. By letter dated May 21, 1979, GSA indicated that occupancy of the M St. building would be completed by April 1980.

During the balance of 1979 there was no firm written offer of the M St. space to the Authority, nor was there any express action rescinding the previous verbal offer. Rather, there were several extensions of the time by which the Authority could begin to take occupancy. The Authority also sought to obtain independent leasing authority from GSA in mid 1979, in an effort to expedite the space acquistion process. This request was denied by GSA in August 1979.

12/ Although acquisition of both headquarters and regional office space was viewed as a priority matter, it appears that acquisition of the former was on the whole a more difficult problem than acquisition of the latter. As a result, this portion of the report will focus on efforts to obtain headquarters space only.

13/ This rationale for office space was repeatedly advanced by Authority officials during the time that they were seeking office space, particularly for the headquarters office. Thus, Chairman Haughton of the Authority expressed the

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In any event, preparations for occupancy of M St. were carried on by the Authority through the early months of 1980. Floor plans were drawn up and discussed with GSA representatives; space utilization rates were calculated; various plans concerning M St. were approved by FLRA and the GSA; and GSA specified that its alterations of M St. would be completed by December 1980.

Although all indications in early 1980 were that the Authority would be moving to 1726 M St., NW., sometime toward the end of 1980, the plans were upset by GSA's letter to the Authority of April 18, 1980. In this letter GSA Regional Director Kallaur advised the Authority that the M St. building had been assigned by GSA to the President's Council on Wage and Price Stability (COWPS). The Authority would have to await assignment to office space in a different location. A prospectus was prepared to this end in late April 1980.

In late June 1980, however, GSA indicated that COWPS would not be receiving the M St. space, due to their (COWPS') continuing budget problems in Congress. Accordingly, plans were again made for FLRA occupancy of the M St. building. These plans were again quickly frustrated, though, when, in August 1980, Mr. Kallaur advised Authority staff that GSA had an unspecified higher priority for the M St. building. As a result, it became necessary to again prepare a prospectus, for congressional approval, to seek office space elsewhere. The process of prospectus review by Congress was underway in November, 1980, when GSA advised the Authority that the M St. site had been assigned to the transition team of President-elect Reagan. The Authority's prospectus then before Congress was approved in December 1980.

Finally, in the spring of 1981, GSA made available to the Authority the present headquarters offices at 500 C St., SW. This space was made available to the Authority pursuant to GSA's normal leasing procedures, as opposed to the congressional prospectus route. Occupancy took place in late October 1981, some two years and three months after congressional enactment of the Authority's start-up fund appropriation.

This protracted search for office space added greatly to the Authority's problems in validly obligating the start-up fund and rendered it virtually impossible for the Authority staff to make significant expenditures from the fund during FY 1979. Such expenditures had to await the finding of such office space, thus necessitating issuance of an obligation in FY 1979 that was far removed in time from the expenditures associated with it.

C. Additional Observations Regarding The Relationship Of FY 1980 and FY 1981 Obligations To The 1979 Appropriation

The obligations incurred in FY 1980 and FY 1981 with private vendors, as set forth at p. 1, above, were incorrectly charged against the 1979 start-up fund appropriation. This is so because after September 30, 1979, that appropriation was no longer available for obligation. That is, the 1979

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Authority's pressing need for such space, based on these reasons, to both the House and Senate Appropriations Committees during proceedings on the 1979 supplemental appropriations bill. Furthermore, GAO recognized the pressing need for such space in its report on the Authority's first year of operations. General Accounting Office, The Federal Labor Relations Authority: Its First Year In Operations 8, 9 (1980).

appropriation lapsed at the end of FY 1979 and no new obligations could be placed against that appropriation in subsequent years. (As indicated at p. 2, fn. 1, above, subsequent orders placed with GSA did not constitute new obligations against the FY 1979 appropriation.)

As a result, the obligations incurred with private vendors in FY 1980 and FY 1981 could only be properly charged against the Authority's appropriation accounts for FY 1980 and FY 1981, because accounts for these two years would be the only sources of funds available to pay for these obligations. Thus, unless sufficient amounts are available in these FY 1980 and FY 1981 accounts that can be restored to meet these FY 1980 and FY 1981 obligations, deficiencies could be incurred for these two years, instead of the deficiency of $340,505.48 for FY 1979 reported herein.

Rather than make the adjustments to charge these FY 1980 and FY 1981 accounts, thus creating possible deficiencies for either or both of those two years, the overobligation of the FY 1979 appropriation that presently exists is reported herein. Further, in reporting the technical violation of 31 U.S.C. § 665 based on overobligation of the FY 1979 appropriation, the Authority nonetheless recognizes the error of charging FY 1980 and FY 1981 obligations to a FY 1979 appropriation.

Positions Of Officers Or Employees Responsible For The Possible Violation:

The position titles of the Authority officers or employees believed to be responsible for the technical violation of the Act in this case are as follows: Financial Manager; Office Services Manager (who also served as the Authority's contracting officer); and Director of Administration. The individuals occupying these positions during the relevant periods of time are no longer employed by the Authority. They have, however, been interviewed in connection with the preparation of this report. Because of the apparently good-faith misunderstanding and unique circumstances involved in this case, no discipline has been imposed on any employee or officer of the Authority.

Statement Of Action Taken At The Direction Of The Authority:

At the direction of the Authority, the following actions have been or shall be taken in response to the matters described above:

1) The unexpended balance of the start-up fund, presently totaling some $196,000, has been deobligated. Additionally, the Authority has acted on this date to declare as surplus this unexpended balance effective the end of FY 1982. The balance will thus lapse to the general fund of the Treasury pursuant to 31 U.S.C. § 701(a)(2).

2) The Members of the Authority, in response to a suggestion by Senator Abdnor, Chairman of the Senate Subcommittee on Treasury, Postal Service, and General Government that administrative responsibility for the agency be lodged in one person, have delegated to the Chairman of the Authority the responsibility for the management of internal administrative matters of the agency. A memorandum describing this delegation was submitted to Senator Danforth, Chairman of the Senate Subcommittee on Federal Expenditures, Research and

Rules, at a hearing of that subcommittee involving the Authority on May 20, 1982. This delegation includes matters pertaining to approval of requests for major procurements by components of the Authority. By consolidating responsibility for such matters in a single person, more effective scrutinizing of procurement actions will be achieved, thus establishing a further safeguard against any possible overobligations of appropriations.

3) The Chairman of the Authority, pursuant to the delegation described above, has issued on this date a memorandum to the Executive Director instructing the Executive Director to ensure that all expenditures on an obligation are made only to the vendor specified in that obligation; that the validity of all obligations incurred by the Authority are to be strictly scrutinized throughout each fiscal year; that obligations not be charged against an appropriation that is no longer available for appropriation; and that all fiscal division employees of the Authority thoroughly refamiliarize themselves with relevant requirements of 31 U.S.C. § 665 and the Authority's Regulations for Administrative Control of Funds.

4) In the event that, in the future, an appropriation is sought by the Authority from Congress to accommodate a need that is beyond the control of the Authority (such as meeting expenses of moving into office space that is to be obtained by GSA), part of the request will include a multi-year period of availability of the appropriation for obligation. This will eliminate the need for prompt obligation of the appropriation to avoid its lapsing.

5) Contacts will be initiated with other appropriate agencies, such as the Office of Management and Budget, to undertake cooperative efforts to ensure that such a situation does not arise again.

6) Advice has been and will continue to be sought by the Authority from GAO (whose auditors verbally alerted the Authority to the deficiency problems discussed herein) concerning the establishment and maintenance of effective accounting controls for the Authority.

7) The Authority has initiated a review of its regulations concerning the administrative system of fund control to determine whether these regulations are in need of amendment to prevent recurrence of this kind of situation.

8) Action will be taken to fill the Financial Manager and Office Services Manager positions, which are currently vacant, on a permanent basis.

Statement Regarding The Adequacy Of The System Of Administrative Control:

The system of administrative controls prescribed in the Authority's Regulations for Administrative Control of Funds is under review to ensure its adequacy, as indicated above.

Concluding Remarks

The violation of 31 U.S.C. § 665 which occurred in this matter is wholly technical in nature, in that accounting controls established by the Authority ensured that no overexpenditure of the start-up amount provided in the FY 1979 supplemental appropriation would or could take place, and in fact none did. Further, the violation which occurred was the product of unique circumstances surrounding the Authority's start-up of operations. Primary among these unique circumstances was the lengthy delay in the obtaining of office space for the Authority. Finally, the violation was also the product of an apparently good-faith misunderstanding on the part of former Authority administrative staff employees as to the ramifications of having obligated the subject appropriation in FY 1979. Based on the foregoing, the Authority believes that the affirmative actions specified above will remedy the situation and prevent any recurrence in the future.

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